

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 February 2, 2004. 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: November 7, 2003.

**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)(318) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(318) Amended regulation for the following APCD was submitted on September 19, 2003, by the Governor's designee.

(i) Incorporation by reference.  
(A) Ventura County Air Pollution Control District.

(1) Rule 74.20, adopted on September 9, 2003.

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 291-0424; FRL-7590-6]

### Interim Final Determination To Stay Sanctions, Ventura 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 Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern VCAPCD Rule 74.20.

**DATES:** This interim final determination is effective on December 4, 2003. However, comments will be accepted until January 5, 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 copies 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.

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

A copy of the rule 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 Web site and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Fong, EPA Region IX, (415) 947-4117, [fong.yvonne@epa.gov](mailto:fong.yvonne@epa.gov).

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

**I. Background**

On April 26, 2002 (67 FR 20645), we published a limited approval and

limited disapproval of VCAPCD Rule 74.20. Table 1 lists the rule addressed by our prior limited approval and disapproval with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—RULE PREVIOUSLY ACTED ON BY US

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD .....	74.20	Adhesives and Sealants .....	01/14/97	03/03/97

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 May 28, 2002 and highway sanctions 6

months later, pursuant to section 179 of the Clean Air Act (CAA) and our regulations at 40 CFR 52.31.

VCAPCD adopted revisions to Rule 74.20 to correct the deficiencies identified in our limited disapproval

action. Table 2 lists the rule that was submitted to correct the deficiencies noted in the previous version with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 2.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD .....	74.20	Adhesives and Sealants .....	09/09/03	09/19/03

In the Proposed Rules section of today’s **Federal Register**, we have proposed approval of this submittal because we believe it corrects the deficiencies identified in our April 26, 2002 disapproval action. Based on today’s proposed approval, we are taking this final rulemaking action, effective on publication, to stay imposition of sanctions that would be triggered by our April 26, 2002 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 full approval of revised VCAPCD Rule 74.20, 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 a final rule approval.

**II. EPA Action**

We are making an interim final determination to stay CAA section 179 sanctions associated with VCAPCD Rule 74.20 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 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 (Public Law 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 December 4, 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 February 2, 2004. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 7, 2003.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### 49 CFR Part 1152

[STB Ex Parte No. 537 (Sub-No. 1)]

#### Public Participation in Railroad Abandonment Proceedings

**AGENCY:** Surface Transportation Board.

**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is amending its regulations concerning the service of a notice of intent to abandon or discontinue rail service by removing an obsolete reference to a labor organization and making technical changes.

**EFFECTIVE DATE:** This rule is effective January 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** John Sado, (202) 565-1661 (Federal Information Relay Service for the hearing impaired: 1-800-877-8339).

**SUPPLEMENTARY INFORMATION:** On September 2, 2003 at 68 FR 52168, the Board published a notice of proposed rulemaking (NPR) in this proceeding seeking comments on the Board's proposed removal of an obsolete reference and technical changes.<sup>1</sup> As noted in the NPR, the regulations at 49 CFR 1152.20(a)(2) provide that applicants seeking to abandon or

discontinue rail service must serve their notices of intent on certain interested parties, including, under section 1152.20(a)(2)(xi), "[t]he headquarters of the Railroad Labor Executives' Association" (RLEA). Because it was the Board's understanding that RLEA no longer existed, it was proposed that section 1152.20(a)(2)(xi) be removed. The NPR noted that the regulations still provide labor interests with notice of proposed abandonments or discontinuances, because current section 1152.20(a)(2)(xiii) requires service on "[t]he headquarters of all duly certified labor organizations that represent employees on the affected rail line."<sup>2</sup>

The NPR also indicated that paragraph 1152.20(a)(2)(xiii) contains language that should be moved for clarity: "For the purposes of this subsection 'directly affected states' are those in which any part of the line sought to be abandoned is located." This language would be more appropriate in section 1152.20(a)(2)(ii), and the Board proposed to move the substance of that language there. Finally, NPR proposed to redesignate sections 1152.20(a)(2)(xii) and (xiii) as sections 1152.20(a)(2)(xi) and (xii), respectively.

No comments were filed in response to the NPR. Accordingly, the obsolete reference will be removed and the technical changes will be made.

The Board certifies that the proposed rule will not have a significant impact on a substantial number of small entities. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, and Uniform System of Accounts.

Decided: November 24, 2003.  
By the Board, Chairman Nober.

**Vernon A. Williams,**  
*Secretary.*

■ For the reasons set forth in the preamble, the Surface Transportation Board amends part 1152, of title 49, chapter X, of the Code of Federal Regulations as follows:

<sup>2</sup> Similar language for giving notice to labor representatives is found at sections 1121.4(h), 1150.32(e), 1150.35(c)(3), 1150.42(e), 1150.45(c)(3) and 1151.2(a)(6) concerning acquisition or operation of rail lines or feeder line applications.

<sup>1</sup> Comment was also sought on the certification that the proposed rule would not have a significant impact on a substantial number of small entities.