

EPA-APPROVED KENTUCKY REGULATIONS FOR KENTUCKY

Regulation	Title/subject	State effective date	EPA approval date	Federal Register notice
*	*	*	*	*
Chapter 51 New Source Requirements; Non-Attainment Areas				
401 KAR 51:001	Definitions	12/18/02	6/24/03	[Insert Federal Register cite for this publication].
*	*	*	*	*
401 KAR 51:160	NO _x Requirements for Large Utility and Industrial Boilers.	12/18/02	6/24/03	[Insert Federal Register cite for this publication].

* * * * *
 [FR Doc. 03-15660 Filed 6-23-03; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA286-0404B; FRL-7517-9]

Interim Final Determination That the State of California Has Corrected Deficiencies and Stay and Deferral of Sanctions; San Joaquin Valley Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).
ACTION: Interim final rule.

SUMMARY: EPA is making an interim final determination that the State of California has corrected deficiencies for which a sanctions clock began on December 10, 2001, based on a proposed approval of revisions to the San Joaquin Valley ozone nonattainment area portion of the California State Implementation Plan (SIP) and an associated proposed finding published elsewhere in today's **Federal Register**. The revisions concern commitments for adoption of control measures for attaining the 1-hour ozone national ambient air quality standard. This action will stay the 2:1 offset sanctions that was imposed in the area on June 10, 2003 and defer the imposition of the highway sanctions.

DATES: This interim final determination is effective on June 24, 2003. However, comments will be accepted until July 24, 2003.

ADDRESSES: Mail comments to Doris Lo at *lo.doris@epa.gov* or at U.S. Environmental Protection Agency (Air-2), 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted SIP revision at the following locations by appointment:

- Planning Office (AIR-2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA
- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA
- San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg, Fresno, CA

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, (415) 972-3959.

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

I. Background

On January 8, 1997 (62 FR 1149), EPA published a final approval of the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the 1994 California ozone SIP. This SIP included, among other things, a commitment to adopt and implement 19 local control measures. On November 8, 2001 (66 FR 56476), EPA found that the SJVUAPCD had failed to implement six of the 19 control measure commitments. This finding began a sanctions clock for imposition of 2:1 offset sanctions 18 months after December 11, 2001, and highway sanctions 6 months later, pursuant to section 179 of the Clean Air Act (CAA). The offset sanction was imposed on June 11, 2003.

On December 6, 2001, SJVUAPCD adopted a revised set of control measure commitments that was intended in part to address EPA's previous finding regarding non-implementation of the SIP. On June 11, 2002, the State submitted these revised commitments to EPA. In the Proposed Rules section of today's **Federal Register**, we have proposed approval of this submittal and have proposed to find that adoption and

implementation of specified rules in the submittal and 14 CCR 1774 and 13 CCR 2450-2466 correct the deficiencies that resulted in the previous finding regarding non-implementation.

II. EPA Action

Based on today's proposed approval and finding, we believe that it is more likely than not that the State has corrected the deficiencies that resulted in the non-implementation finding that started the offset and highway sanctions clocks. We are therefore taking final rulemaking action, effective on publication, to stay the offset sanctions and defer imposition of the highway sanctions that were triggered by our November 8, 2001 finding.

EPA is providing the public with an opportunity to comment on this final action. If comments are submitted that change our assessment described in this final determination and the proposed approval of the revised commitments and associated finding, 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 and finding.

Because EPA has preliminarily determined that the State has corrected the deficiencies that resulted in EPA's finding of non-implementation, 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 and associated finding, 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 keep applied sanctions in place or to impose additional sanctions 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 defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal and associated finding. 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 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 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 June 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 August 25, 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

Environmental protection, Air pollution control, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 13, 2003.

Jack P. Broadbent,

Acting Regional Administrator, Region IX.

[FR Doc. 03-15898 Filed 6-23-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[PA124-4079a; FRL-7517-3]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Pennsylvania; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the municipal solid waste (MSW) landfill section 111(d) plan (the plan) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The plan establishes nonmethane organic compounds (NMOC) emissions limits for existing landfills in the Commonwealth of Pennsylvania, excluding the geographic areas of Allegheny County and the City of Philadelphia. The plan was submitted to fulfill requirements of the Clean Air Act (the Act).

DATES: This final rule is effective August 25, 2003 without further notice, unless EPA receives adverse written comment by July 24, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Walter Wilkie, Chief, Air Quality Analysis Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania