

Dated: December 12, 2002.

**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)(302) to read as follows:

#### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(302) New and amended regulations for the following APCDs were submitted on October 16, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Imperial County Air Pollution Control District.

(1) Rule 701, revised on August 13, 2002.

(B) Monterey Bay Unified Air Pollution Control District.

(1) Rule 408, adopted on September 1, 1974 and revised on August 21, 2002.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[CA 273-0370c; FRL-7441-7]

### **Interim Final Determination to Stay and/or Defer 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 and/or defer 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 701.

**DATES:** This interim final determination is effective on January 31, 2003. However, comments will be accepted until March 3, 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 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:

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/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:** 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 July 11, 2001 (66 FR 36170), we published a limited approval and limited disapproval of ICAPCD Rule 701 as adopted locally on September 14, 1999 and submitted by the State on May 26, 2000. 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 August 10, 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 August 13, 2002, ICAPCD adopted revisions to Rule 701 that were intended to correct the deficiencies identified in our disapproval action. On October 16, 2002, the State submitted these revisions to EPA. 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 July 11, 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 11, 2001 disapproval.

EPA is providing the public with an opportunity to comment on this stay/deferral of sanctions. If comments are submitted that change our assessment described in this final determination and the proposed approval of revised ICAPCD Rule 701, 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 and/or defer CAA section 179 sanctions associated with ICAPCD Rule 701 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 and/or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this