

section 461(f). (i) A taxpayer using an accrual method of accounting is not allowed a deduction under section 461(f) in the taxable year of the transfer unless economic performance has occurred.

(ii) Economic performance occurs for liabilities requiring payment to another person arising out of any workers compensation act or any tort, or any other liability designated in § 1.461–4(g), as payments are made to the person to which the liability is owed. Except as provided in section 468B or the regulations thereunder, economic performance does not occur when a taxpayer transfers money or other property to a trust, an escrow account, or a court to provide for the satisfaction of an asserted workers compensation, tort, or other liability designated under § 1.461–4(g) that the taxpayer is contesting unless the trust, escrow account, or court is the person to which the liability is owed or the taxpayer's payment to the trust, escrow account, or court discharges the taxpayer's liability to the claimant. Rather, economic performance occurs in the taxable year the taxpayer transfers money or other property to the person that is asserting the workers compensation, tort, or other liability designated under “§ 1.461–4(g) that the taxpayer is contesting or in the taxable year that payment is made from a trust, an escrow account, or a court registry funded by the taxpayer to the person to which the liability is owed.

(3) *Examples.* The provisions of this paragraph (e) are illustrated by the following examples:

*Example 1.* [Reserved]. For further guidance, see § 1.461–2(e)(3), *Example 1*.

*Example 2.* Corporation X is a defendant in a class action suit for tort liabilities. In 2002, X establishes a trust for the purpose of satisfying the asserted liability and transfers \$10,000,000 to the trust. The trust does not satisfy the requirements of section 468B or the regulations thereunder. In 2004, the trustee pays \$10,000,000 to the plaintiffs in settlement of the litigation. Under paragraph (e)(2) of this section, economic performance with respect to X's liability to the plaintiffs occurs in 2004. X may deduct the \$10,000,000 payment to the plaintiffs in 2004.

(f) [Reserved]. For further guidance, see § 1.461–2(f).

(g) *Effective date.* (1) Except as otherwise provided, this section applies to transfers of money or other property in taxable years beginning after December 31, 1953, and ending after August 16, 1954.

(2) Paragraph (c)(1)(iii)(E) of this section applies to transfers of any stock of the taxpayer or any stock or indebtedness of a person related to the taxpayer on or after November 19, 2003.

(3) Paragraph (e)(2)(i) of this section applies to transfers of money or other property after July 18, 1984.

(4) Paragraphs (e)(2)(ii) and (e)(3) of this section apply to—

(i) Transfers after July 18, 1984, of money or other property to provide for the satisfaction of an asserted workers compensation or tort liability; and

(ii) Transfers in taxable years beginning after December 31, 1991, of money or other property to provide for the satisfaction of asserted liabilities designated in § 1.461–4(g) (other than liabilities for workers compensation or tort).

Approved: November 12, 2003.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: November 12, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[CA107–OPP–FRL–7589–8]

### Final Approval of Revision of 34 Clean Air Act Title V Operating Permits Programs

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision of the following 34 Clean Air Act (CAA) title V Operating Permits Programs in the State of California: Amador County Air Pollution Control District (APCD), Bay Area AQMD, Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD,

Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD.

**EFFECTIVE DATE:** This action will become effective on January 1, 2004.

**ADDRESSES:** Copies of the documentation in the administrative record for this action are available for inspection during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

**FOR FURTHER INFORMATION CONTACT:** Gerardo Rios, EPA Region 9, Air Division, Permits Office (AIR–3), at (415) 972–3974 or [rios.gerardo@epa.gov](mailto:rios.gerardo@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” or “our” means EPA.

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### I. Background

Title V of the CAA Amendments of 1990 required all State permitting authorities to develop operating permits programs that met certain federal criteria codified at 40 Code of Federal Regulations (CFR) part 70. On November 30, 2001, we promulgated final full approval of 34 California districts' title V operating permits programs. See 66 FR 63503 (December 7, 2001). Our final rulemaking was challenged by several environmental and community groups alleging that the full approval was unlawful based, in part, on an exemption in section 42310(e) of the California Health and Safety Code of major agricultural sources from title V permitting. EPA entered into a settlement of this litigation which required, in part, that the Agency propose to partially withdraw approval of the 34 fully approved title V programs in California.

Sections 70.10(b) and 70.10(c) provide that EPA may withdraw a 40 CFR part 70 program approval, in whole or in part, whenever the permitting authority's legal authority does not meet the requirements of part 70 and the permitting authority fails to take corrective action. To commence regulatory action to partially withdraw title V program approval, EPA published a Notice of Deficiency (NOD) in the **Federal Register**. See 67 FR 35990 (May 22, 2002). Pursuant to 40 CFR 70.10(b)(2), publication of the NOD commenced a 90-day period during which the State of California had to take significant action to assure adequate administration and enforcement of the