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, 5 U.S.C. 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 April 22, 2004. 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 June 21, 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 5, 2004.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 04–9040 Filed 4–21–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 218–0433a; FRL–7640–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Kern County Air Pollution Control District (KCAPCD) portion of the California State Implementation Plan (SIP). The KCAPCD revisions concern stack sampling, standards for granting applications, and the emission of particulate matter (PM–10) from agricultural burning and prescribed burning. We are approving local rules that administer regulations and regulate emission sources under the Clean Air Act as amended (CAA or the Act).

DATES: This rule is effective on June 21, 2004 without further notice, unless EPA receives adverse comments by May 24, 2004. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail or e-mail 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,* or submit comments at *http://www.regulations.gov.*

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:

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.

Kern County Air Pollution Control District, 2700 ''M'' Street, Suite 302, Bakersfield, CA 93301.

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.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, *petersen.alfred@epa.gov.*

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

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
KCAPCD	108	Stack Sampling	07/24/03	11/04/03
KCAPCD	208	Standards for Granting Applications	09/17/98	10/27/98
KCAPCD	417	Agricultural and Prescribed Burning	07/24/03	11/04/03.

On December 23, 2003, the submittal of Rules 108 and 417 was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On December

18, 1998, the submittal of Rule 208 was found to meet the completeness criteria.

B. Are There Other Versions of These Rules?

We approved KCAPCD Rule 108 into the SIP on August 10, 2001 (68 FR 52510), originally adopted on April 18, 1972. We approved KCAPCD Rule 208 into the SIP on September 22, 1972 (37 FR 19812), originally adopted on April 18, 1972. We approved KCAPCD Rule 417 into the SIP on September 4, 2003 (68 FR 52510), originally adopted on April 18, 1972.

C. What Is the Purpose of the Submitted Rule Revisions?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions.

The purpose of the revisions to KCAPCD Rule 108 is to make the following change:

- Deleted is the obsolete section on rule effective date and compliance date.

The purpose of the revisions to KCAPCD Rule 208 is to make the following changes:

- Added is the requirement for the equipment to comply with Federal regulations.
- Added is the requirement to specify conditions, if required for compliance.
- Added is the requirement to submit a California Environmental Quality Act (CEQA) Indemnity Agreement, if required by the Control Officer.

The purpose of the revisions to KCAPCD Rule 108 is to make the following changes:

- Deleted is the exemption to allow open burning on no-burn days for agricultural operations in the growing of crops or raising of fowl or animals at altitudes above 3,000 feet.
- Deleted is the exemption to allow open burning on no-burn days at elevations over 6,000 feet.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). This applies to administrative Rules 108 and 208.

Section 189(a) of the CAA requires moderate nonattainment areas with significant PM–10 sources to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT). KCAPCD is a PM–10 maintenance attainment area that was previously PM–10 moderate nonattainment. The *PM–10 Attainment Demonstration Maintenance Plan and Redesignation Request,* KCAPCD (September 5, 2002) does not rely on Rule 417 for attainment, therefore fulfilling RACM/RACT is not required.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).
- *Prescribed Burning Background Document and Technical Information Document for Best Available Control Measures* (EPA–450/2–92–003).
- *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 57 FR 13498, 13540 (April 16, 1992).
- *PM–10 Attainment Demonstration Maintenance Plan and Redesignation Request,* KCAPCD (September 5, 2002).

B. Do the Rules Meet the Evaluation Criteria?

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling RACM/RACT.

The TSDs have more information on our evaluation.

C. EPA Recommendation to Further Improve the Rules

The TSD describes an additional revision for KCAPCD Rule 108 that does not affect EPA's current action but is recommended for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by May 24, 2004, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 21, 2004. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That 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 (Public Law 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 June 21, 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, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 8, 2004.

Laura Yoshii,

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)(260)(i)(C) and (321)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(260) * * *

(i) * * *

(C) Kern County Air Pollution Control District.

(*1*) Rule 208, originally adopted on April 18, 1972, amended on September 17, 1998.

* * * * *

(321) * * *

(i) * * *

(B) Kern County Air Pollution Control District.

(*1*) Rules 108 and 417, originally adopted on April 18, 1972, amended on July 24, 2003.

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[FR Doc. 04–9038 Filed 4–21–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA258–0442(B); FRL–7645–8]

Interim Final Action to Stay and Defer Sanctions Based on Attainment of the 1-hour Ozone Standard for the San Francisco Bay Area, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is taking interim final action to stay and defer the imposition of, respectively, offset and highway sanctions under the Clean Air Act (CAA) based on a finding that the San Francisco Bay Area (Bay Area) has attained the 1-hour ozone national ambient air quality standard (NAAQS). The finding of attainment is published elsewhere in today's **Federal Register.**

DATES: This interim final rule is effective on April 22, 2004. However, comments will be accepted until May 24, 2004.

ADDRESSES: Send comments to Ginger Vagenas, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 or e-mail to *vagenas.ginger@epa.gov,* or submit comments at *http://www.regulations.gov.*

You can inspect copies of the public comments and the attainment finding docket (number C258–0442(B)) at our Region IX office during normal business hours by appointment. The Region IX office is located at the following address: Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, (415) 972–3964, *vagenas.ginger@epa.gov.*

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

I. Background

On September 20, 2001 (effective October 22, 2001, 66 FR 48340), we published a partial approval and partial disapproval of the San Francisco Bay Area 1999 ozone attainment plan (1999 Plan) as submitted by the State on August 13, 1999. The plan was adopted locally by the Bay Area Air Quality Management District on June 16, 1999, by the Metropolitan Transportation Commission on June 17, 1999, and by the Association of Bay Area Governments on June 23, 1999. These agencies are referred to collectively as the co-lead agencies. We based our disapproval action on deficiencies in the attainment assessment, the motor vehicle emissions budgets, and the reasonably available control measure (RACM) demonstration. The disapproval action started a sanctions clock for imposition of offset sanctions 18 months after October 22, 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 October 24, 2001, the co-lead agencies adopted the San Francisco Bay Area 2001 Ozone Attainment Plan (2001 Plan) that was intended in part to correct the deficiencies identified in our partial disapproval action. On November 30, 2001, the State submitted the 2001 Plan to EPA. On July 16, 2003, we proposed approval of this submittal because we believed it corrected the deficiencies identified in our September 20, 2001, disapproval action. (68 FR 42174). Based on that proposed