

substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

*Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

These rules are not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal standard.

*H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

These rules are 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 under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

*J. Congressional Review Act*

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). This rule will be effective December 17, 2007.

*K. Petitions for Judicial Review*

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 January 14, 2008. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 11, 2007.

**Alexis Strauss,**

*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)(351) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(351) New and amended regulation for the following APCDs were submitted on August 24, 2007, by the Governor’s designee.

(i) Incorporation by reference.

(A) Imperial County Air Pollution Control District.

(1) Rule 101, Adopted 7/28/81; revised 9/14/99; 1/16/2001; 12/11/2001; 08/13/02; 01/11/2005; 10/10/2006.

(B) Monterey Bay Unified Air Pollution Control District.

(1) Rule 101, Adopted 9–1–74; Revised 12–21–83; 12–13–84; 11–13–96; 11–12–98; and 12–15–1999; and 4–16–03; and 2–21–07.

\* \* \* \* \*

[FR Doc. E7–21811 Filed 11–14–07; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL–8495–1]

**Availability of Federally Enforceable State Implementation Plans for All States**

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

**ACTION:** Notice of availability.

**SUMMARY:** Section 110(h) of the Clean Air Act, as amended in 1990 (the “Act”), requires EPA by November 15, 1995, and every three years thereafter, to assemble the requirements of the Federally enforceable State Implementation Plans (SIPs) in each State and to publish notice in the **Federal Register** of the availability of such documents. This notice of availability fulfills the three-year requirement of making these SIP compilations for each State available to the public.

**DATES:** *Effective Date:* November 15, 2007.

**ADDRESSES:** You may contact the appropriate EPA Regional Office regarding the requirements of the applicable implementation plans for each State in that region. The list below identifies the appropriate regional office for each state. The State Implementation Plan (SIP) compilations are available for public inspection during normal business hours at the appropriate EPA Regional Office. If you want to view these documents, you should make an appointment with the appropriate EPA office and arrange to review the SIP at a mutually agreeable time.

*Region 1:* Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

*Regional Contact:* Donald Cooke (617/918-1668), EPA, Office of Ecosystem Protection (CAQ), Suite 1100, One Congress Street, Boston, MA 02114-2023. See also: <http://www.epa.gov/region1/topics/air/sips.html>.

*Region 2:* New Jersey, New York, Puerto Rico, and Virgin Islands.

*Regional Contact:* Paul Truchan (212/637-3711), EPA, Air Programs Branch, 290 Broadway, New York, NY 10007-1866. See also: <http://www.epa.gov/region2/air/sip/>.

*Region 3:* Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

*Regional Contact:* Harold A. Frankford (215/814-2108), EPA, Office of Air Programs (3AP20), Air Protection Division, 1650 Arch Street, Philadelphia, PA 19103-2029. See also: <http://yosemite.epa.gov/r3/r3sips.nsf/MidAtlanticSIPs?openform>.

*Region 4:* Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

*Regional Contact:* Sean Lakeman (404/562-9043), EPA, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, GA 30303. See also: <http://www.epa.gov/region4/air/sips/>.

*Region 5:* Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

*Regional Contacts:* Christos Panos (312/353-8328), EPA, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, IL 60604-3507. See also: <http://www.epa.gov/region5/air/sips/index.html>.

*Region 6:* Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

*Regional Contact:* Bill Deese (214/665-7253), EPA, Multimedia Planning and Permitting Division, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, TX 75202-2733. See also: <http://www.epa.gov/earth1r6/6pd/air/sip/sip.htm>.

*Region 7:* Iowa, Kansas, Missouri, and Nebraska.

*Regional Contact:* Evelyn VanGoethem (913/551-7659), EPA, Air and Waste Management Division, Air Planning and Development Branch, 901 North 5th Street, Kansas City, KS 66101. See also: <http://www.epa.gov/region07/programs/artd/air/rules/fedapprv.htm>.

*Region 8:* Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

*Regional Contact:* Laurie Ostrand (303/312-6437), EPA, Air and Radiation Program, Office of Partnership and Regulatory Assistance, 1595 Wynkoop Street, Denver, CO 80202-2466. See

also: <http://www.epa.gov/region8/air/sip.html>.

*Region 9:* Arizona, California, Hawaii, Nevada, American Samoa, and Guam.

*Regional Contacts:* Julie Rose (415/947-4126), and Cynthia Allen (415/947-4120), EPA, Air Division, Rulemaking Office, (AIR-4), 75 Hawthorne Street, San Francisco, CA 94105. See also: <http://www.epa.gov/region9/air/sips/>.

*Region 10:* Alaska, Idaho, Oregon, and Washington.

*Regional Contact:* Claudia Vaupel (206/553-6121), EPA, Office of Air Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101-3140. See also: <http://www.epa.gov/r10earth/sips.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Donald Cooke, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1668, fax number (617) 918-0668, e-mail [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Availability of SIP Compilations.
- II. What Is the Basis for This Document?
- III. What Is Being Made Available Under This Document?
- IV. What Are the Documents and Materials Associated With the SIP?
- V. Background.
  - A. Relationship of National Ambient Air Quality Standards (NAAQS) to SIPs.
  - B. What Is a State Implementation Plan?
  - C. What Is Federally-Enforceable?

#### I. Availability of SIP Compilations

This notice identifies the appropriate EPA Regional Offices to which you may address questions of SIP availability and SIP requirements. In response to the 110(h) requirement following the 1990 Clean Air Act Amendments, the first notice of availability was published in the **Federal Register** on November 1, 1995 at 60 FR 55459. The second notice of availability was published in the **Federal Register** on November 18, 1998 at 63 FR 63986. The third notice of availability was published in the **Federal Register** on November 20, 2001 at 66 FR 58070. The fourth notice of availability was published in the **Federal Register** on December 22, 2004 at 69 FR 76617. This is the fifth notice of availability of the compilations of Federally-enforceable State Implementation Plans for each state.

In addition, information on the content of EPA-approved SIPs is available on the Internet through the EPA Regional Web sites. Regional Web site addresses for Regional information

are provided in the regional contacts list above.

#### II. What Is the Basis for This Document?

Section 110(h)(1) of the Clean Air Act mandates that not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990, and every three years thereafter, the Administrator shall assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the **Federal Register** of the availability of such documents.

Section 110(h) recognizes the fluidity of a given State SIP. The SIP is a living document which can be revised by the State with EPA approval as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations. On May 31, 1972 (37 FR 10842), EPA approved, with certain exceptions, the initial SIPs for 50 states, four territories and the District of Columbia. [Note: EPA approved an additional SIP—for the Northern Mariana Islands—on November 10, 1986 (51 FR 40799)]. Since 1972, each State and territory has submitted numerous SIP revisions, either on their own initiative, or because they were required to as a result of various amendments to the Clean Air Act. This notice of availability informs the public that the SIP compilation has been updated to include the most recent requirements approved into the SIP. These approved requirements are Federally-enforceable.

#### III. What Is Being Made Available Under This Document?

The Federally-enforceable SIP is indeed a complex document, containing both many regulatory requirements and non-regulatory items such as plans and emission inventories. Regulatory requirements include State-adopted rules and regulations, source-specific requirements reflected in consent orders, and in some cases, provisions in the enabling statutes. Following the 1990 Clean Air Act Amendments, the first section 110(h) SIP compilation availability notice was published on November 1, 1995 (61 FR 55459). At that time, EPA announced that the SIP compilations, comprised of the regulatory portion of each State SIP, were available at the EPA Regional Office serving that particular State. In general, the compilations made available in 1995 did not include the source-specific requirements or other documents and materials associated

with the SIP. With the second notice of availability in 1998, the source-specific requirements and the “non-regulatory” documents [e.g., attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.] were made available and will remain available for public inspection at the respective regional office listed in the **ADDRESSES** section above. If you want to view these documents, please make an appointment with the appropriate EPA Regional Office and arrange for a mutually agreeable time.

#### **IV. What Are the Documents and Materials Associated With the SIP?**

EPA-approved non-regulatory control measures include control strategies (such as transportation control measures, local ordinances, state statutes, and emission inventories, or may include regulations provided on other sections of the State-specific subpart of 40 CFR part 52), which have been submitted for inclusion in the SIP by the state. These control measures must have gone through the state rulemaking process and the public given an opportunity to participate in the rulemaking. EPA also took rulemaking action on these control measures and those which have been EPA-approved or conditionally approved are listed along with any limitations on their approval, if any. Examples of EPA-approved documents and materials associated with the SIP include, but are not limited to, the following subject matter: SIP Narratives; Particulate Matter Plans; Carbon Monoxide Plans; Ozone Plans; Maintenance plans; Vehicle Inspection and Maintenance (I/M) SIPs; Emissions Inventories; Monitoring Networks; State Statutes submitted for the purposes of demonstrating legal authority; Part D nonattainment area plans; Attainment demonstrations; Transportation control measures (TCMs); Committal measures; Contingency Measures; Non-regulatory and Non-TCM Control Measures; 15% Rate of Progress Plans; Emergency episode plans; Visibility plans. As stated above the “non-regulatory” documents are available for public inspection at the appropriate EPA Regional Office.

#### **V. Background**

##### *A. Relationship of National Ambient Air Quality Standards (NAAQS) to SIPs*

EPA has established National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, which are widespread common pollutants known to be harmful to

human health and welfare. The present criteria pollutants are: Carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur oxides. See 40 CFR part 50 for a technical description of how the levels of these standards are measured and attained. State Implementation Plans provide for implementation, maintenance, and enforcement of the NAAQS in each state. Areas within each state that are designated nonattainment are subject to additional planning and control requirements. Accordingly, different regulations or programs in the SIP will apply to different areas. EPA lists the designation of each area at 40 CFR part 81.

##### *B. What Is a State Implementation Plan?*

The State Implementation Plan is a plan for each State which identifies how that State will attain and/or maintain the primary and secondary National Ambient Air Quality Standards (NAAQS) set forth in section 109 of the Clean Air Act and 40 Code of Federal Regulations 50.4 through 50.12 and which includes Federally-enforceable requirements. Each State is required to have a SIP which contains control measures and strategies which demonstrate how each area will attain and maintain the NAAQS. These plans are developed through a public process, formally adopted by the State, and submitted by the Governor's designee to EPA. The Clean Air Act requires EPA to review each plan and any plan revisions and to approve the plan or plan revisions if consistent with the Clean Air Act.

SIP requirements applicable to all areas are provided in section 110. Part D of title I the Clean Air Act specifies additional requirements applicable to nonattainment areas. Section 110 and part D describe the elements of a SIP and include, among other things, emission inventories, a monitoring network, an air quality analysis, modeling, attainment demonstrations, enforcement mechanisms, and regulations which have been adopted by the State to attain or maintain NAAQS. EPA has adopted regulatory requirements which spell out the procedures for preparing, adopting and submitting SIPs and SIP revisions; that are codified in 40 CFR part 51.

EPA's action on each State's SIP is promulgated in 40 CFR part 52. The first section in the subpart in 40 CFR part 52 for each State is generally the “Identification of plan” section which provides chronological development of the State SIP. Or if the state has undergone the new Incorporation by Reference format process (see 62 FR

27968; May 22, 1997), the identification of plan section identifies the State-submitted rules and plan elements which have been Federally approved. The goal of the State-by-State SIP compilation is to identify those rules under the “Identification of plan” section which are currently Federally-enforceable. In addition, some of the SIP compilations may include control strategies, such as transportation control measures, local ordinances, State statutes, and emission inventories, or may include regulations provided in other sections of the State-specific subpart of part 52. Some of the SIP compilations may not identify these other Federally-enforceable elements.

The contents of a typical SIP fall into three categories: (1) State-adopted control measures which consists of either rules/regulations or source-specific requirements (e.g., orders and consent decrees); (2) State-submitted “non-regulatory” components (e.g., attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.); and (3) additional requirements promulgated by EPA (in the absence of a commensurate State provision) to satisfy a mandatory section 110 or part D (Clean Air Act) requirement.

##### *C. What Is Federally-Enforceable?*

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the Clean Air Act.

You should note that, when States have submitted their most current State regulations for inclusion into Federally-enforceable SIPs, EPA will begin its review process of submittals as soon as possible. Until EPA approves a submittal by rulemaking action, State-submitted regulations will be State-enforceable only; therefore, State-enforceable SIPs may exist which differ from Federally-enforceable SIPs. As EPA approves these State-submitted regulations, the regional offices will continue to update the SIP compilations to include these applicable requirements.

Dated: November 8, 2007.

**Stephen L. Johnson,**  
Administrator.

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