

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

2. Section 52.1220 is amended by adding paragraph (c)(60) to read as follows:

**§ 52.1220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(60) On May 2, 2001, the State of Minnesota submitted a site-specific State Implementation Plan (SIP) revision for the control of emissions of sulfur dioxide (SO<sub>2</sub>) for Koch Petroleum Group, L.P., located in the Pine Bend Area of Rosemount, Dakota County, Minnesota. Specifically, EPA is approving into the SO<sub>2</sub> SIP Amendment No. 5 to the Administrative Order previously approved in paragraph (c)(35) and revised in paragraph (c)(57) of this section.

(i) Incorporation by reference

(A) An administrative order identified as Amendment Five to Findings and Order by Stipulation, for Koch Petroleum Group, L.P., dated and effective April 30, 2001, submitted May 2, 2001.

[FR Doc. 02–3756 Filed 2–20–02; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA 253–0321c; FRL–7139–4]

**Interim Final Determination That State Has Corrected the Rule Deficiencies and Stay of Sanctions, El Dorado County Air Pollution Control District, State of California**

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

**ACTION:** Interim final determination.

**SUMMARY:** Elsewhere in today's **Federal Register**, EPA has proposed conditional approval of revisions to the California State Implementation Plan (SIP). The revisions concern El Dorado County Air Pollution Control District (EDCAPCD) Rule 233. Based on the proposed conditional approval, EPA is making an interim final determination that the State has corrected deficiencies in the rule for which a sanction clock began on February 14, 2000. This action will stay the imposition of the offset sanctions and defer the imposition of the highway sanctions. Although this action is effective upon publication, EPA will take comment and will publish a final

rule taking into consideration any comments received on this interim final determination.

**DATES:** This document is effective February 21, 2002. Comments must be received by March 25, 2002.

**ADDRESSES:** Written comments must be submitted to Andrew Steckel, Rulemaking Section (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667.

**FOR FURTHER INFORMATION CONTACT:**

Charnjit Bhullar, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 972–3960.

**SUPPLEMENTARY INFORMATION:****I. Background**

On October 20, 1994, the State submitted EDCAPCD Rule 233, for which EPA published a limited disapproval in the **Federal Register** on January 13, 2000 (65 FR 2052). The effective date of our limited disapproval was February 14, 2000. EPA's disapproval action started an 18-month clock for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP). The State subsequently submitted a revised version of Rule 233 on November 09, 2001. In the Proposed Rules section of today's **Federal Register**, EPA has proposed conditional approval of the November 2001 submittal.

Based on the proposed conditional approval, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this interim final rulemaking action finding that the State has corrected the deficiencies. However, EPA is also

providing the public with a opportunity to comment on this interim final action. If, based on the comments on this action and the comments on EPA's proposed conditional approval, EPA determines that the State's submittal is not approvable and this interim final action was inappropriate, EPA will propose to disapprove the State's submittal and will take interim final action finding that the State has not corrected the original disapproval deficiencies. Upon a final disapproval of the State's submittal, EPA would finalize the interim final finding, finding that the State has not corrected the deficiencies.

This action does not stop the sanctions clock that started for this area on February 14, 2000, the effective date of our disapproval. However, this action will stay the imposition of the offset sanction and will defer imposition of the highway sanction. See 40 CFR 52.31(d)(2)(ii). If EPA takes final action conditionally approving the State's submittal, such action will continue any deferral or stay of the offset and highway sanctions. When the State meets its commitment and EPA takes final action fully approving the State's submittal meeting those commitments, such action will permanently stop the sanctions clock and will permanently lift any imposed, stayed or deferred sanctions. However, if at any time EPA determines that the State, in fact, did not correct the disapproval deficiencies, as appropriate, EPA either will withdraw this interim final determination or take final action finding that the State has not corrected the deficiencies. Such action will retrigger the sanctions consequences as described in 40 CFR 52.31.

**II. EPA Action**

EPA is taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clock. Based on this action, imposition of the offset sanction will be stayed and imposition of the highway sanction will be deferred until EPA takes final action fully approving the State's submittal or EPA takes action proposing or finally disapproving in whole or part the State submittal. If EPA takes final action conditionally approving the State's submittal, any deferral or stay of the sanctions clock will remain in place. If EPA subsequently takes final action fully approving the State submittal meeting its commitment, any sanctions clocks will be permanently stopped and any imposed, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has an

approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception to the 30-day notice requirement of the Administrative Procedure Act because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

### III. Administrative 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. For this reason, this action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely stays and defers federal sanctions. 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 only stays an imposed sanction and defers the imposition of another, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 stays a sanction and defers another one, 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.

This rule does not contain technical standards; 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for effected conduct. EPA has compiled with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule) 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). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of February 21, 2002. 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 April 22, 2002. 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 rules. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 23, 2002.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[SIP NO. UT-001-0037a; FRL-7142-9]

### Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revision of Definitions

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of Utah on April 19, 2000. The April 19, 2000 submittal revises Utah's Air Conservation Regulations by updating the definitions for "significant" and "volatile organic compound" to be in agreement with the federal definitions. The intended effect of this action is to make the definitions federally enforceable. This action is being taken under section 110 of the Clean Air Act.

**DATES:** This rule is effective on April 22, 2002 without further notice, unless EPA receives adverse comment by March 25, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and