determine that the State's submittal is not fully approvable and this final action was inappropriate, we will either propose or take final action finding that the State has not corrected the original disapproval deficiencies. As appropriate, we will also issue an interim final determination or a final determination that the deficiency has been corrected.

This action does not stop the sanctions clock that started for this area on August 21, 2000. However, this action will stay the imposition of the offsets sanction and will defer the imposition of the highway sanction. If our direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanctions clock and will permanently lift any imposed, stayed or deferred sanctions. If we must withdraw the direct final action based on adverse comments and we subsequently determine that the State, in fact, did not correct the disapproval deficiencies, we will also determine that the State did not correct the deficiencies and the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832 (August 4, 1994), codified at 40 CFR 52.31.

II. EPA Action

We are 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 our direct final action fully approving the State's submittal becomes effective or until we take action proposing or finally disapproving in whole or part the State submittal. If our direct final action fully approving the State submittal becomes effective, at that time any sanctions clocks will be permanently stopped and any imposed, stayed, or deferred sanctions will be permanently lifted.

Because we have preliminarily determined that the State has an approvable submittal, relief from sanctions should be provided as quickly as possible. Therefore, we are 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. 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it 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 (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 affected conduct. EPA has complied 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 26, 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping.

Dated: January 28, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 02–4397 Filed 2–25–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 256–0319a; FRL–7139–1]

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 a revision to the Kern County Air Pollution Control District (KCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns the emission of nitrogen oxides (NO_X) from internal combustion engines. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on April 29, 2002, without further notice, unless EPA receives adverse comments by March 28, 2002. 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 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:

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.

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.

Table of Contents

I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Adopted	Submitted
KCAPCD	427	Stationary Piston Engines (Oxides of Nitrogen)	11/01/01	12/14/01

On January 22, 2002, this submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

We approved into the SIP on July 21, 2000 (65 FR 45297) a version of Rule 427, adopted on July 2, 1998. We received but did not act on submittals of Rule 427, adopted on July 1, 1999 and May 4, 2000. While we can act on only the most recent submittal, we considered the information previously submitted.

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

The purpose of the submitted revised Rule 427 is to remedy the deficiencies cited in the limited approval and limited disapproval action on Rule 427 on July 21, 2000 (65 FR 45297).

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA), must require Reasonably Available Control Technology (RACT) for major sources of NO_X in ozone nonattainment areas (see sections 182(a)(2)(A) and 182(f) and must not relax existing requirements (see sections 110(l) and 193). The KCAPCD regulates a serious ozone nonattainment area. See 66 FR 56476 (November 8, 2001). Such areas must fulfill RACT for all major sources of NO_X pursuant to sections 107(d) and 182(f) of the CAA.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR Part 51.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987* **Federal Register Notice,** (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
- *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* (the ''NO_X Supplement to the General Preamble''), U.S. EPA, 57 FR 55620 (November 25, 1992).
- *Cost-Effective Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT)*, U.S. EPA Office of Air Quality Planning and Standards (March 16, 1994).
- *State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown,* U.S. EPA, Office of Air Quality Planning and Standards (September 20, 1999).

B. Does the Rule Meet the Evaluation Criteria?

We believe the rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. All of the deficiencies identified in our previous limited approval and limited disapproval action on Rule 427 have been adequately addressed as follows:

- Section VIII.C.1.a: [The frequency of source testing to demonstrate compliance should be reduced from every two years to once every 8,760 hours or two years, whichever time period is shorter.] The District has revised section VIII.C.1 to correct the deficiency.
- Sections VIII.C.2.c and VIII.C.2.d: [The alternative of group-testing a representative sample of ⅓ of the engines each year to show compliance should be done with a 10% lower emissions limit than for each individual engine. The engines tested should be rotated in such a way that all engines are tested once every three years.] The District has revised section VIII.C.2 to correct the deficiency. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills 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 rule. If we receive adverse comments by March 28, 2002, 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 April 29, 2002. This will incorporate this rule into the federally-enforceable SIP.

III. Background Information

Why Was This Rule Submitted?

NO_X helps produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit rules that control NO_X emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Clean Air Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. 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 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 CAA. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 29, 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 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.

Dated: January 28, 2002.

Wayne Nastri,

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)(290) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(290) New and amended regulations for the following APCDs were submitted

on December 14, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

(*1*) Rule 427, adopted on November 1, 2001.

* * * * *

[FR Doc. 02–4398 Filed 2–25–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN64–01–7289a; FRL–7139–8]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is approving a site-specific revision to the Minnesota Sulfur Dioxide (SO_2) State Implementation Plan (SIP) for the Northern States Power Company (NSP) Riverside Plant. By its submittal dated September 1, 1999, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve NSP Riverside's Title V Operating Permit into the Minnesota SO_2 SIP and remove the NSP Riverside Administrative Order from the state SO_2 SIP. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

DATES: This direct final rule will be effective April 29, 2002, unless EPA receives adverse comment by March 28, 2002. If EPA receives adverse comments, 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: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353–8328, before visiting the Region 5 office.)

A copy of the SIP revision is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is approving into the Minnesota SO_2 SIP certain portions of the Title V permit for NSP's Riverside plant, located in Minneapolis, Hennepin County, Minnesota. Specifically, EPA is only approving into the SIP those portions of the permit cited as ''Title I condition: State Implementation Plan for SO_2.'' In this same action, EPA is removing the NSP Riverside Plant Administrative Order from the state SO_2 SIP.

2. Why Is EPA Taking This Action?

EPA is taking this action because the state's request does not change any of the emission limitations currently in the SIP or their accompanying supportive documents, such as the SO_2 air dispersion modeling. The revision to the SIP does not approve any new construction or allow an increase in emissions, thereby providing for attainment and maintenance of the SO_2 National Ambient Air Quality Standards (NAAQS) and satisfying the applicable SO_2 requirements of the Act. The only change to the SO_2 SIP is the enforceable document for the NSP Riverside Plant, from the Administrative Order to the federal Title V permit.

II. Background on Minnesota Submittal

1. What Is the Background for This Action?

NSP's Riverside Plant is located in Minneapolis, Hennepin County, Minnesota. Monitored violations of the primary SO_2 NAAQS from 1975 through 1977 led MPCA to recommend that EPA designate Air Quality Control Region (AQCR) 131 as nonattainment for SO_2. AQCR 131 includes Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties in the State of Minnesota. EPA designated AQCR 131 as a primary SO_2 nonattainment area on March 3, 1978 (43 FR 8962). In response to Part D requirements of the Clean Air Act, MPCA submitted a final SO_2 plan on August 4, 1980. EPA approved the Minnesota Part D SO_2 SIP for AQCR 131 on April 8, 1981 (46 FR 20996).

Subsequent monitored violations of the SO_2 NAAQS prompted a 1982 notice of SIP inadequacy for the Dakota County area of AQCR 131. Also, as a result of the promulgation of the Good Engineering stack height rule in 1985, the MPCA identified modeled attainment problems in other areas of AQCR 131. The submittal of a revised plan for the area was further delayed by the passage of the CAA Amendments in 1990. MPCA submitted the final SO_2 SIP revisions to EPA in three parts. On May 29, 1992 MPCA submitted the plan for the majority of the AQCR 131 area, which included Hennepin County. EPA first approved the Administrative Order for the NSP Riverside Plant into the Minnesota SO_2 SIP on April 14, 1994 (59 FR 17703) and amended the order in the SIP on October 13, 1998 (63 FR 54585).

2. What Information Did Minnesota Submit, and What Were Its Requests?

The SIP revision submitted by MPCA on September 1, 1999, consists of a Title V operating permit issued to the NSP Riverside Plant. The state has requested that EPA approve the following:

(1) The inclusion into the Minnesota SO_2 SIP only the portions of the NSP Riverside Plant Title V permit cited as ''Title I condition: State Implementation Plan for SO_2''; and,

(2) The removal from the Minnesota SO_2 SIP of the Administrative Order for the NSP Riverside Plant previously approved into the SIP.

3. What Is a ''Title I Condition?''

SIP control measures were contained in permits issued to culpable sources in Minnesota until 1990 when EPA determined that limits in state-issued permits are not federally enforceable because the permits expire. The state then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

Minnesota's Title V permitting rule, approved into the state SIP on May 2, 1995 (60 FR 21447), includes the term ''Title I condition'' which was written, in part, to satisfy EPA requirements that SIP control measures remain permanent.