

Dated: November 10, 2005.

**M.R. DeVries,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

[FR Doc. 05-23235 Filed 11-22-05; 8:45 am]

**BILLING CODE 4910-15-P**

## **ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD**

### **36 CFR Parts 1190 and 1191**

[Docket No. 02-1]

RIN 3014-AA26

### **Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines; Public Rights-of-Way**

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of availability of draft guidelines.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) has placed in the docket and on its Web site for public review draft guidelines which address accessibility in the public right-of-way. The draft guidelines are under consideration by the Board. The purpose of placing the draft guidelines in the docket is to facilitate gathering of additional information for the regulatory assessment and the preparation of technical assistance materials to accompany a future rule. The Board is not seeking comments on the draft guidelines. The Board will issue a notice of proposed rulemaking at a future date and will solicit comments at that time, prior to issuing a final rule.

**FOR FURTHER INFORMATION CONTACT:** Scott Windley, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. Telephone number (202) 272-0025 (voice); (202) 272-0082 (TTY). Electronic mail address: [windley@access-board.gov](mailto:windley@access-board.gov).

**SUPPLEMENTARY INFORMATION:** In 1999, the Architectural and Transportation Barriers Compliance Board (Access Board) established the Public Rights-of-Way Access Advisory Committee (Committee) to make recommendations on accessibility guidelines for newly constructed and altered public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968. The

Committee was comprised of representatives from disability organizations, public works departments, transportation and traffic engineering groups, design professionals and civil engineers, pedestrian and bicycle organizations, Federal agencies, and standard-setting bodies. The Committee met on five occasions between December 1999 and January 2001. On January 10, 2001, the Committee presented its recommendations on accessible public rights-of-way in a report entitled "Building a True Community." The Committee's report provided recommendations on access to sidewalks, street crossings, and other related pedestrian facilities and addressed various issues and design constraints specific to public rights-of-way. The report is available on the Access Board's Web site at <http://www.access-board.gov/prowac/commrept/index.htm> or can be ordered by calling the Access Board at (202) 272-0080. Persons using a TTY should call (202) 272-0082. The report is available in alternate formats upon request. Persons who want a copy in an alternate format should specify the type of format (cassette tape, braille, large print, or ASCII disk).

The Access Board convened an ad hoc committee of Board members to review the Committee's recommendations. After reviewing the report in detail, the Board's ad hoc committee prepared recommendations for guidelines addressing accessibility in the public right-of-way. On June 17, 2002, the Board made the recommendations of the ad hoc committee available for public comment and review by notice in the **Federal Register** (67 FR 41206).

Over 1,400 comments were received from the public in response to the publication of the draft. Of this total, almost 900 comments were from persons with disabilities and groups representing them; the great preponderance of comments in this category came from people who indicated that they were blind or had low vision. Respondents from the transportation industry, including design engineers and consultants, submitted slightly over 200 comments. Another 100 were received from State and local government administrative agencies. Comments are posted on the Board's Web site at <http://www.access-board.gov/prowac/comments/index.htm>. Further discussion of the comments received is available in the supplementary information accompanying the draft guidelines.

The members of the Board's ad hoc committee subsequently reviewed and

considered the comments received in response to the 2002 **Federal Register** notice. The draft guidelines made available today on the Board's Web site are the result of those deliberations. The Access Board is making the draft guidelines available in order to facilitate the gathering of additional information for a regulatory assessment prior to publishing a notice of proposed rulemaking and to assist in the development of technical assistance materials. The Board is not soliciting comments on the draft guidelines. The Board will solicit comments when a proposed rule is issued in conjunction with the regulatory assessment. The draft guidelines along with supplementary information have been placed in the rulemaking docket (Docket No. 02-1) for public review. The draft guidelines and supplementary information are also available on the Access Board's Web site at <http://www.access-board.gov/prowac/draft.htm>. You may also obtain a copy of the draft guidelines and supplementary information by contacting the Access Board at (202) 272-0080. Persons using a TTY should call (202) 272-0082. The documents are available in alternate formats upon request. Persons who want a copy in an alternate format should specify the type of format (cassette tape, braille, large print, or ASCII disk).

**Lawrence W. Roffee,**  
*Executive Director.*

[FR Doc. 05-23161 Filed 11-22-05; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[R09-OAR-2005-CA-0006; FRL-7998-4]

### **Revisions to the California State Implementation Plan, Imperial and Santa Barbara County Air Pollution Control Districts**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and Santa Barbara County Air Pollution Control District (SBCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that are

administrative and address changes for clarity and consistency.

**DATES:** This rule is effective on January 23, 2006 without further notice, unless EPA receives adverse comments by December 23, 2005. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number [DOCKET NUMBER], by one of the following methods:

1. Agency Web site: <http://docket.epa.gov/rmepub/>. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.
2. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.
3. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
4. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>,

including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal or e-mail. The agency Web site and eRulemaking portal are “anonymous access” systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://docket.epa.gov/rmepub> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either

location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Cynthia G. Allen, EPA Region IX, (415) 947-4120, [allen.cynthia@epa.gov](mailto:allen.cynthia@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?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rule revisions?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. Public comment and final action.
- III. Statutory and Executive Order Reviews

**I. The State’s Submittal**

*A. What rules did the State submit?*

Table 1 lists the rules we are approving with the dates 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 #	Rule title	Adopted	Submitted
ICAPCD .....	101	Definitions .....	01/11/05	04/26/05
SBCAPCD .....	102	Definitions .....	01/20/05	04/26/05

On June 3, 2005, these rule submittals were 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 these rules?*

We approved versions of these rules into the SIP on the dates listed: ICAPCD Rule 101 on March 7, 2003 and SBCAPCD Rule 102 on July 23, 2004.

*C. What is the purpose of the submitted rule revisions?*

Imperial County Rule 101 is amended by adding new definitions, revising some existing definitions, and deleting obsolete definitions. New and revised definitions for Rule 424, Architectural Coatings, are added into Rule 101.

Santa Barbara Rule 102 is amended by revising the definition of reactive organic compounds to exempt methyl acetate and perchloroethylene.

Section 110(a) of the CAA requires states to submit regulations that control

volatile organic compounds, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of the local agency’s program to control these pollutants.

EPA’s technical support document has more information about these rules.

**II. EPA’s Evaluation and Action**

*A. How is EPA evaluating the rules?*

These rules describe administrative provisions and definitions that support emission controls found in other local agency requirements. In combination with other requirements, these rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). EPA policy that we used to help evaluate enforceability requirements consistently includes the Bluebook (“Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988) and the Little Bluebook (“Guidance

Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001).

*B. Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

*C. Public comment and final action.*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it 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 December 23, 2005, 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 January 23, 2006. 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 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 (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

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. section 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. section 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 January 23, 2006. 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 26, 2005.

**Jane Diamond,**

*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)(336)(i)(C) and (D) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(336) \* \* \*

(i) \* \* \*

(C) Imperial County Air Pollution Control District.

(1) Rule 101, adopted on January 11, 2005.

(D) Santa Barbara County Air Pollution Control District.

(1) Rule 102, adopted on January 20, 2005.

\* \* \* \* \*

[FR Doc. 05-23090 Filed 11-22-05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-TX-0016; FRL-8000-6]

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Permits by Rule

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On September 28, 2005 (70 FR 56566), EPA published a direct final rule to approve a State Implementation Plan (SIP) revision for the State of Texas. This action removed a provision from the Texas SIP which provided public notice for concrete batch plants which were constructed under a permit