

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 29, 2011.

**W. C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 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 V Maryland**

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entries for COMAR 26.11.26.01 and 26.11.26.03, and adding new entries for COMAR 26.11.26.02, 26.11.26.04, 26.11.26.05, 26.11.26.06, 26.11.26.07,

26.11.26.08, and 26.11.26.09 in numerical order. The amendments read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c)\* \* \*

**EPA-APPROVED REGULATIONS IN THE MARYLAND SIP**

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
26.11.26	<b>Conformity</b>			
26.11.26.01	Purpose	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.02	Definitions	6/30/08	9/26/11 [Insert page number where the document begins].	Definitions added for transportation conformity; definitions for general conformity were approved at (c)(136).
26.11.26.03	Transportation Conformity	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.04	Transportation Conformity—Consultation in General.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.05	Transportation Conformity—Interagency Consultation Requirements.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.06	Transportation Conformity—Dispute Resolution.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.07	Transportation Conformity—Public Consultation Procedures.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.08	Transportation Conformity—Interagency Consultation.	6/30/08	9/26/11 [Insert page number where the document begins].	New Regulation.
26.11.26.09	General Conformity	6/30/08	9/26/11 [Insert page number where the document begins].	Formerly SIP regulation 26.11.26.03.

\* \* \* \* \*  
[FR Doc. 2011-24526 Filed 9-23-11; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2011-0789; FRL-9471-2]

**Interim Final Determination To Stay and Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination to stay the

imposition of offset sanctions and to defer the imposition of highway sanctions based on a proposed approval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP) published on September 14, 2011. 76 FR 56706. The revisions concern SJVUAPCD Rule 4570.

**DATES:** This interim final determination is effective on September 26, 2011. However, comments will be accepted until October 26, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0789, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).  
3. *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://www.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, 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:** Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), 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:** Sona Chilingaryan, EPA Region IX, (415) 972-3368, [chilingaryan.sona@epa.gov](mailto:chilingaryan.sona@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, “we,” “us” and “our” refer to EPA.

## I. Background

On January 14, 2010 (75 FR 2079), we finalized a limited approval and limited disapproval of SJVUAPCD Rule 4570 as adopted locally on June 18, 2009 and submitted by the State on June 26, 2009. We based our limited disapproval action on certain deficiencies in the submittal. Our disapproval action started a sanctions clock for imposition of sanctions pursuant to section 179 of the Clean Air Act (CAA) and our regulations at 40 CFR 52.31. Under 40 CFR 52.31(d)(1), offset sanctions apply eighteen months after the effective date of a disapproval and highway sanctions apply six months after the offset sanctions, unless we determine that the deficiencies forming the basis of the disapproval have been corrected.

On October 21, 2010, SJVUAPCD adopted revisions to Rule 4570 that were intended to correct the deficiencies identified in our limited disapproval action. On April 5, 2011, the State submitted these revisions to EPA. On September 14, 2011 (76 FR 56706) we proposed approval of the State’s submittal because we believe it corrects the deficiencies identified in our January 14, 2010 limited disapproval action. Based on our September 14, 2011 proposed approval, we are taking this final rulemaking

action, effective on publication, to stay the imposition of offset sanctions and to defer the imposition of highway sanctions that were triggered by our January 14, 2010 limited disapproval.

EPA is providing the public with an opportunity to comment on this stay/deferral of sanctions. If comments are submitted that change our assessment described in this final determination and the proposed full approval of revised SJVUAPCD Rule 4570, we intend to take subsequent final action to reimpose sanctions pursuant to 40 CFR 52.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of a final rule approval.

## II. EPA Action

We are making an interim final determination to stay the imposition of offset sanctions and to defer the imposition of highway sanctions associated with SJVUAPCD Rule 4570 based on our September 14, 2011 proposed approval of the State’s SIP revision as correcting deficiencies that initiated sanctions.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA’s limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA’s determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State’s submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiencies that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State’s submittal. Therefore, EPA believes that it is necessary to use the interim final

rulemaking process to stay and defer sanctions while EPA completes its rulemaking process on the approvability of the State’s submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

## III. Statutory and Executive Order Reviews

This action stays and defers Federal sanctions and imposes no additional 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 is 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.

The administrator certifies that this action 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.*).

This rule 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 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 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 rule 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.

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, section 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 September 26, 2011. 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 November 25, 2011. 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, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 16, 2011.

**Thomas J. McCullough,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. 2011-24516 Filed 9-23-11; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 412

[CMS-1349-CN]

RIN 0938-AQ28

#### Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2012; Changes in Size and Square Footage of Inpatient Rehabilitation Units and Inpatient Psychiatric Units; Correction

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 5, 2011 entitled "Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2012; Changes in Size and Square Footage of Inpatient Rehabilitation Units and Inpatient Psychiatric Units," (hereinafter FY 2012 IRF PPS final rule (76 FR 47836)).

**DATES:** *Effective Date.* The corrections are effective October 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Susanne Seagrave, (410) 786-0044.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

There were technical errors in the August 5, 2011 FY 2012 IRF PPS final rule (76 FR 47836). These technical errors are identified and corrected in the "Summary of Errors" and "Correction of Errors" sections below. The provisions in this correction document are effective as if they were included in the final rule published on August 5, 2011. Accordingly, the corrections are effective October 1, 2011.

##### II. Summary of Errors

In the August 5, 2011 final rule (76 FR 47836), we applied our established formula for calculating the relative weight values for case-mix groups (CMG). The CMG relative weight values for CMGs 1201, 1202, 1203, 1301, 1302, and 1303 in Table 1 on pages 47842 through 47844 of the final rule did not reflect our policy that the relative weight values for higher-paying tiers must always be greater than or equal to the relative weight values for lower-paying tiers. That is, a tier 1 payment for a given CMG must always be at least as

high as a tier 2 payment for that same CMG, the tier 2 payment must always be at least as high as the tier 3 payment, and the tier 3 payment must always be at least as high as the "no-comorbidity" tier payment. We have used this policy in calculating the CMG relative weights since the inception of the IRF PPS. However, we inadvertently did not apply this policy correctly for CMGs 1201, 1202, 1203, 1301, 1302, and 1303 in Table 1 on pages 47842 through 47844 of the FY 2012 IRF PPS final rule.

Further, as discussed in "Step 4" in the CMG relative weights discussion, column 1, on page 47841 of the FY 2012 IRF PPS final rule, we normalized the FY 2012 CMG relative weights to the same average CMG relative weight values from the FY 2011 IRF PPS notice (75 FR 42836). As this process utilized the incorrect values that had been listed for the relative weight values for CMGs 1201, 1202, 1203, 1301, 1302, and 1303, upon correction we also needed to reapply the normalization process to the other CMGs using the corrected relative weight values. This process corrects the relative weight values for all CMGs so that we are appropriately applying the policy of normalizing the FY 2012 CMG relative weights to the same average CMG relative weight values from the FY 2011 IRF PPS notice.

Since the FY 2012 payment rates listed in Table 11 on pages 47865 through 47866 of the final rule are based on the CMG relative weights in Table 1 (the payment rates are equal to the CMG relative weights multiplied by the FY 2012 Standard Payment Conversion Factor), we are also providing corrections to Table 11 in the final rule to reflect the corrections to the CMG relative weights in Table 1. In addition, we are correcting the example of computing the IRF FY 2012 Federal prospective payment in Table 12 on page 47867 of the final rule to reflect the correction to the unadjusted Federal prospective payment rate for CMG 0110 (without comorbidities) from Table 11.

Finally, we utilized the CMG payment rates reflected in Table 11 of the IRF PPS final rule to determine the FY 2012 outlier threshold. As described in the final rule, the outlier threshold is to be set so that the estimated total outlier payments in FY 2012 will equal 3 percent of total estimated payments. Since corrections to the FY 2012 payment rates result in slight differences in the amount of outlier payments we estimate for FY 2012, the use of the corrected data results in an outlier threshold for FY 2012 IRF PPS of \$10,713. Therefore, we are correcting the outlier threshold amount for FY 2012 from \$10,660 to \$10,713 to ensure