

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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule creates a temporary safety zone and is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to establishment of safety zones. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0408 to read as follows:

§ 165.T09–0408 Safety Zone; Buffalo Carnival, Buffalo Outer Harbor; Buffalo, NY.

(a) *Location.* This zone will encompass all waters of Buffalo Outer Harbor, Buffalo, NY contained within a 280-foot radius of position 42°52′10.76″ N. and 078°52′56.01″ W. (NAD 83).

(b) *Enforcement period.* This rule is effective on May 28, 2017 from 8:45 p.m. until 9:45 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: May 23, 2017.

J.S. Dufresne,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2017–11026 Filed 5–26–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0772; FRL–9962–82–Region 9]

Determination of Attainment and Approval of Base Year Emissions Inventories for the Imperial County, California Fine Particulate Matter Nonattainment Area; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: On March 13, 2017, the Environmental Protection Agency (EPA) published a direct final rule in the **Federal Register** determining that the Imperial County, California Moderate nonattainment area (“the Imperial County NA”) attained the 2006 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standard. In the same action, the EPA approved a revision to California’s state implementation plan (SIP) consisting of the 2008 emissions inventory for the Imperial County NA submitted by the California Air Resources Board (CARB or “State”) on January 9, 2015. The EPA’s description in regulatory text of the SIP element that was approved inadvertently included information unrelated to the 2008 emissions inventory. This document corrects the regulatory text to clarify the provisions of the SIP that are approved.

DATES: This correcting amendment is effective on May 30, 2017.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, (415) 972–3964, Vagenas.Ginger@epa.gov.

SUPPLEMENTARY INFORMATION: This action corrects an inadvertent error in a rulemaking related to the EPA’s approval of the 2008 emissions inventory for the Imperial County NA. On March 13, 2017, the EPA published a direct final rule approving a revision of the California SIP—specifically, we approved the portion of Chapter 3 of CARB’s January 9, 2015 submittal that contains the 2008 emissions inventory for the Imperial County NA. This action contained amendatory instructions that added paragraph (484) to 40 CFR 52.220(c). However, in the amendatory instructions the EPA inadvertently failed to exclude Section 3.4.2 (“Determination of Significant Sources of PM_{2.5}”) from the portions of the SIP we intended to approve. This document corrects that error.

Correction

In the direct final rule published in the **Federal Register** on March 13, 2017 (82 FR 13392), on page 13397, third column, in amendatory instruction 2, § 52.220(c)(484)(ii)(A)(1) should have listed Section 3.4.2 (“Determination of Significant Sources of PM_{2.5}”) among the portions of Chapter 3 that the EPA was excluding from its approval.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because the underlying rule for which this correcting amendment has been prepared was already subject to a 30-day comment period. No comments were received. Further, this action, which corrects an inadvertent regulatory text error that was included in the EPA’s March 13, 2017 direct final rule, is consistent with the substantive revision to the California SIP as described in the preamble of said action concerning the approval of the 2008 emissions inventory for the Imperial County NA. Because this correction action does not change the EPA’s analysis or overall action related to the approval of the 2008 emissions inventory, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for the correction in the amendatory instructions and related paragraph designation to become effective on the date of publication. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects an inadvertent error in the regulatory text of the EPA’s prior rulemaking for the California SIP. For these reasons, the EPA finds good cause under APA section 553(d)(3) for the correction to § 52.220(c)(484)(ii)(A)(1) to become effective on the date of publication of this final rule.

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). Because the agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section, above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does 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), nor will it 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 by Executive Order 13132 (64 FR 43255, August 10, 1999). 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 addition, this rule does not involve 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. This rule also 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of May 30, 2017. The 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).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 4, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendment:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 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 revising paragraph (c)(484)(ii)(A)(1) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *
(484) * * *
(ii) * * *
(A) * * *

(1) “Imperial County 2013 State Implementation Plan for the 2006 24-Hour PM_{2.5} Moderate Nonattainment Area,” adopted December 2, 2014, Chapter 3 (“Emissions Inventory”) excluding: Section 3.4.1

("Determination of Significant Sources of PM_{2.5} Precursors"); Section 3.4.2 ("Determination of Significant Sources of PM_{2.5}"); the 2011 and 2012 winter and annual average inventories in Table 3.1 ("PM_{2.5} Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories"); the 2011 and 2012 winter and annual average inventories in Table 3.7 ("NO_x Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories"); the 2011 and 2012 winter and annual average inventories in Table 3.8 ("VOCs Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories"); the 2011 and 2012 winter and annual average inventories in Table 3.9 ("SO_x Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories"); and the 2011 and 2012 winter and annual average inventories in Table 3.10 ("Ammonia Emissions Inventory by Major Source Category 2008, 2011 and 2012 Winter and Annual Planning Emissions Inventories").

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE104-1104; FRL-9961-26-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Delaware state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This action is effective May 30, 2017.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR

part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or NARA. For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814-2042 or by email at huang.gavin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997 **Federal Register** document. On December 7, 1998 (63 FR 67407), EPA published a document in the **Federal Register** beginning the new IBR procedure for Delaware. On June 21, 2004 (69 FR 34285), April 3, 2007 (72 FR 15839), April 17, 2009 (74 FR 17771), and May 2, 2011 (76 FR 24372), September 24, 2013 (78 FR 58465), EPA published updates to the IBR material for Delaware. Since the publication of the last IBR update, EPA has approved regulatory changes to the following Delaware revised regulations:

1. 7 DNREC regulation 1103 (Ambient Air Quality Standards), sections 1.0 (General Provisions), 4.0 (Sulfur Dioxide), 6.0 (Ozone), 8.0 (Nitrogen Dioxide), 10.0 (Lead), and 11.0 (PM₁₀ and PM_{2.5} Particulates).

2. 7 DNREC regulation 1140 (Delaware Low Emission Vehicle Program), sections 1.0 (Purpose), 2.0 (Applicability), 3.0 (Definitions), 4.0 (Emission Certification Standards), 5.0 (New Vehicle Emission Requirements), 6.0 (Manufacturer Fleet Requirements), 7.0 (Warranty), 8.0 (Reporting and Record-Keeping Requirements), 9.0 (Enforcement), 10.0 (Incorporation by Reference), 11.0 (Document Availability), and 12.0 (Severability).

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of July 1, 2016 and revising the text within 40 CFR 52.420(b). EPA is revising our 40 CFR part 52 "Identification of Plan" for the State of Delaware regarding incorporation by reference, section 52.420(b). EPA is revising section 52.420(b)(1) to clarify that all SIP revisions listed in paragraphs (c) and (d), regardless of inclusion in the most recent "update to the SIP compilation," are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking in which EPA approved the SIP revision, consistent with following our "Approval and Promulgations of Air Quality Implementation Plans; Revised Format of 40 CFR part 52 for Materials Being Incorporated by Reference," effective May 22, 1997 (62 FR 27968). EPA is revising section 52.420(b)(2) to clarify references to other portions of paragraph (b) with subparagraph (b)(2). EPA is revising section (b)(3) to update address and contact information.

III. Good Cause Exemption

EPA has determined that this rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA approved regulations promulgated by the State of Delaware and federally effective prior to July 1, 2016. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been