speeds not to exceed 6 knots, whichever is less.

(ii) Vessels transiting this area must not maneuver within 20 yards of a Tall Ship or other vessel participating in the Tall Ships Rhode Island 2004 Festival (identified by a Tall Ships Rhode Island 2004 flag), unless authorized by the Coast Guard Captain of the Port (COTP) Providence or her designated on-scene representative. On-scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(2)(i) Vessels transiting Regulated Navigation Area B must do so at speeds of at least 3 knots or at no wake speed whichever is more, but not to exceed 6 knots.

(ii) Vessels transiting this area must not maneuver within 20 yards of a moored Tall Ship, unless authorized by the Coast Guard Captain of the Port (COTP) Providence or her designated on-scene representative. On-scene representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(iii) Vessels must enter Regulated Navigation Area B in a counterclockwise direction, proceed north along the eastern side of Newport Harbor to a turning point south of the causeway in approximate position 41°29′28″N and 71°19′40″N, then proceed south down the western side of Newport Harbor and exit the area to the left side of the entrance.

(iv) For vessels other than the Tall Ships, those vessels proceeding under sail when not also propelled by machinery, are not allowed in Area B due to increased difficulty in maintaining required speed of advance while sailing, as well as limited maneuvering ability to proceed single file behind numerous other spectator craft viewing the moored Tall Ships.

(3)(i) Vessels transiting Regulated Navigation Area C must do so at no wake speed or at speeds not to exceed 6 knots, whichever is less.

(ii) Vessels transiting Regulated Navigation Area C must not maneuver within 20 yards of an excursion vessel and passenger-for-hire vessel greater than 50 feet permitted to anchor within this area, unless authorized by the COTP Providence or her on-scene representative. On-scene representatives comprise of commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: July 9, 2004.

David P. Pekoske,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 04–16099 Filed 7–12–04; 2:53 pm]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 3

Amendment to Bylaws of the Board of Governors

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: On June 15, 2004, the Board of Governors of the United States Postal Service adopted a revision to its bylaws. The purpose of this revision was to reserve the selection of the independent external auditor to the Presidentially-appointed Governors rather than the full Board of Governors. Consequently, the Postal Service hereby publishes this final rule.

EFFECTIVE DATE: June 15, 2004.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000, (202) 268–4800.

SUPPLEMENTARY INFORMATION: This document publishes a revision to 39 CFR 3.3 and 3.4 of the Bylaws of the Board of Governors of the United States Postal Service. The Board removed and reserved § 3.3(o) which reserved for the full Board the selection of the independent outside auditor. The Board added a new paragraph (k) to § 3.4 to reserve for the Governors the selection of the independent outside auditor. The changes were adopted by the Board on June 15, 2004. The purpose of the changes was to reserve the selection of the independent external auditor to the Presidentially-appointed Governors rather than the full Board of Governors.

List of Subjects in 39 CFR Part 3

Administrative Practice and procedure, Organization and functions (Government agencies), Postal Service.

■ Accordingly, sections 3. 3 and 3.4 of title 39 CFR are amended as follows:

PART 3—BOARD OF GOVERNORS (ARTICLE 111)

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

Authority: 39 U.S.C. 202, 203, 205, 401(2), (10), 402, 414, 416, 1003, 2802–2804, 3013; 5 U.S.C. 552b(g), (j); Inspector General Act, 5 U.S.C. app.; Pub. L. 107–67, 115 Stat. 514 (2001).

■ 2. Section 3.3 is amended by removing and reserving paragraph (o).

§ 3.3 Matters reserved for decision by the Board.

* * * * *

(o) [Reserved]

* * * * *

■ 3. Section 3.4 is amended by adding new paragraph (k) to read as follows:

§ 3.4 Matters reserved for decision by the Governors.

* * * * *

(k) Selection of an independent, certified public accounting firm to certify the accuracy of Postal Service financial statements as required by 39 U.S.C. 2008(e).

Neva Watson,

Attorney, Legislative.

[FR Doc. 04–16023 Filed 7–14–04; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 295–0441w; FRL–7787–2]

Withdrawal of Direct Final Rule Revising the California State Implementation Plan, Great Basin Unified Air Pollution Control District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On June 7, 2004 (69 FR 31739), EPA published a direct final approval of revisions to the California State Implementation Plan (SIP). These revisions concerned GBUAPCD Rule 406, Open Outdoor Fires, GBUAPCD Rule 407, Incinerator Burning, and Ventura County Rule 56, Open Burning. The direct final action was published without prior proposal because EPA anticipated no adverse comment. The direct final rule stated that if adverse comments were received by July 7, 2004, EPA would publish a timely withdrawal in the **Federal Register**. EPA received a timely adverse comment and is, therefore, withdrawing the direct final approval. EPA will address the comment in a subsequent final action based on the parallel proposal also published on June 7, 2004 (69 FR 31782). As stated in the parallel proposal, EPA will not institute a second comment period on this action. Accordingly, the revision to 40 CFR 52.220, published in the **Federal Register** on June 7, 2004 (69 FR 31739), which was to become effective on August 6, 2004, is withdrawn.

DATES: The direct final rule published on June 7, 2004, at 69 FR 31739, is withdrawn as of July 15, 2004.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4),

U.S. Environmental Protection Agency, Region IX, (415) 947–4118, *petersen.alfred@epa.gov.*

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 21, 2004.

Wayne Nastri,

Regional Administrator, Region IX.

■ Accordingly, the amendment to 40 CFR 52.220, published in the **Federal Register** on June 7, 2004 (69 FR 31739), which was to become effective on August 6, 2004, is withdrawn.

[FR Doc. 04–15941 Filed 7–14–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[FRL–7788–1]

State of Alabama; Underground Injection Control Program Revision; Response to Court Remand

AGENCY: Environmental Protection Agency.

ACTION: Final determination on court remand on final rule.

SUMMARY: In this document, the Environmental Protection Agency (EPA) is providing its response to the Eleventh Circuit Court of Appeals' remand in *Legal Environmental Assistance Foundation, Inc.* v. *United States Environmental Protection Agency* (11th Cir. 2001) (hereinafter LEAF II), directing EPA to determine whether Alabama's revised underground injection control (UIC) program covering hydraulic fracturing of coal bed seams to recover methane gas complies with the requirements for Class II wells. In LEAF II, the Eleventh Circuit affirmed EPA's decision to review Alabama's hydraulic fracturing program pursuant to the approval criteria in section 1425 of the Safe Drinking Water Act (SDWA), instead of the approval criteria in section 1422 of the SDWA, and rejected LEAF's claim that EPA's approval of the program pursuant to section 1425 was arbitrary. However, the Court remanded the matter, in part, for EPA ''to determine whether Alabama's revised UIC program complies with the requirements for Class II wells.'' After issuing a proposed response in the April 8, 2004, **Federal Register** and receiving comments on that proposal, EPA has determined that the hydraulic fracturing portion of the State's UIC program relating to coal bed methane production, which was approved under section 1425 of the SDWA, complies with the requirements for Class II wells within the context of section 1425's approval criteria.

ADDRESSES: Documents relevant to this action are available for inspection at a docket, which is located at U.S. Environmental Protection Agency, Region 4, Water Management Division, Ground Water and Drinking Water Branch, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The docket may be accessed between 8 a.m. and 5 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: General questions, and questions on technical issues concerning today's document should be directed to Larry Cole at (404) 562–9474, or at the address listed in the **ADDRESSES** section. Questions on legal issues concerning today's document should be addressed to Zylpha Pryor, Office of Environmental Accountability, U.S. Environmental Protection Agency—Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303; telephone (404) 562–9535.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information
  A. Court Decisions
  B. Section 1425 of the SDWA
II. EPA's Response to Court Remand
III. EPA's Response to Public Comments

I. Background Information

A. Court Decisions

On May 3, 1994, the Legal Environmental Assistance Foundation, Inc., (LEAF) submitted a petition to EPA to withdraw Alabama's UIC program, asserting that the State was not appropriately regulating injection activities associated with coal bed methane gas production wells. Following the Agency's May 5, 1995, denial of the petition, LEAF sought review of this decision by the United States Court of Appeals for the Eleventh Circuit. On August 7, 1997, in *LEAF* v. *EPA*, 118 F. 3d 1467 (11th Cir. 1997) (LEAF I), the Court held that hydraulic fracturing activities constitute underground injection under Part C of the SDWA and must be regulated by permit or rule. On February 18, 1999, the Eleventh Circuit directed EPA to implement the Court's August 1997 decision. The Court established a schedule for EPA to follow in determining whether, in light of the Court's ruling regarding hydraulic fracturing, EPA should withdraw approval of Alabama's UIC program. In a January 19, 2000, **Federal Register** final rule, EPA announced its determination that Alabama's UIC program regulating hydraulic fracturing associated with coal bed methane production was consistent with the requirements of the SDWA and the LEAF I Court mandate (65 FR 2889, January 19, 2000).

LEAF filed a petition for review of EPA's determination with the Eleventh Circuit Court, arguing that it should be set aside for three reasons. First, LEAF argued that the underground injection of hydraulic fracturing fluids to enhance the recovery of methane gas from coal beds is not underground injection for the secondary or tertiary recovery of natural gas under section 1425 of the SDWA. Second, LEAF contended that wells used for the injection of hydraulic fracturing fluids to enhance the recovery of methane gas from coal beds are Class II wells as defined in 40 CFR 144.6(b), and EPA's classification of hydraulic fracturing as a ''Class II-like underground injection activity'' was not in accordance with law. Third, LEAF argued that, even if Alabama's revised UIC program was covered by the alternative approval procedure of section 1425, EPA's approval of the revised program was arbitrary and capricious. The Eleventh Circuit generally ruled in favor of EPA, holding that: (1) EPA's decision to approve Alabama's hydraulic fracturing program pursuant to section 1425 of the SDWA was a permissible construction of the statute; and (2) EPA was not arbitrary in determining that Alabama's UIC program complies with the section 1425 statutory approval requirements. LEAF II, 276 F.3d at 1260–61, 1265. However, the Court remanded, in part, for EPA to determine whether Alabama's revised program covering the hydraulic fracturing of coal beds to produce methane complies with the requirements for Class II wells. *Id.* at 1264. The purpose of this document is to announce EPA's determination regarding the remanded issue.

B. Section 1425 of the SDWA

Any State that seeks to acquire primary enforcement responsibility for the regulation of Class II wells may, at its option, apply for primacy for its Class II UIC program under the approval criteria in either section 1422 or section 1425 of the SDWA. Approval under either section is aimed at achieving the same fundamental objective of