these rules have been corrected. Therefore, if this direct final action is not withdrawn, on March 25, 1996, any sanction or FIP clock is stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 25, 1996, unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective March 25, 1996.

Regulatory Process

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this State implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Small Businesses

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a table 3 action for signature by the Regional Administrator under procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 11, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of 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. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(224)(i)(A)(*1*) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(224) New and amended regulations for the following APCDs were submitted on August 10, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 448 and rule 449, adopted on February 2, 1995.

* * * * *

[FR Doc. 96–775 Filed 1–22–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA 157–1–7223c; FRL–5317–4]

Interim Final Determination That State Has Corrected the Deficiency; State of California; Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Elsewhere in today's Federal Register, EPA has published a direct final rulemaking fully approving portions of the State of California's submittal of its State Implementation Plan (SIP) revision. EPA has also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's proposed action, EPA will withdraw its direct final action and will consider any comments received before taking final action on the State's submittal. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock began on July 9, 1994.

This action will defer the imposition of the offset sanction and defer the imposition of the highway sanction. Although this action is effective upon publication, EPA will take comment. If no comments are received on EPA's proposed approval of the State's submittal, the direct final action published in today's Federal Register will also finalize EPA's determination that the State has corrected the deficiencies that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: Effective date: January 23, 1996. Comments must be received by February 22, 1996.

ADDRESSES: Comments should be sent to Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

The rules and EPA's analysis for each rule, which are the basis for this action, are available for public review at the above address. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

Background

On June 19, 1992, the State submitted Sacramento Metropolitan Air Quality Management District (SMAQMD) Rule 448, Gasoline Transfer into Stationary Storage Containers, and Rule 449, Transfer of Gasoline into Vehicle Fuel Tanks, which EPA disapproved in part on June 9, 1994, 59 FR 29731. EPA's disapproval action started an 18-month clock for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP). The State subsequently submitted revised rules on August 10, 1995. EPA has taken direct final action on these rules pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's Federal Register, EPA has issued a direct final full approval of the State of California's submittal of these SIP rule revisions. In addition, in the Proposed Rules section of today's Federal Register, EPA has proposed full approval of these rules.

Based on the direct final full approval set forth in today's Federal Register, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiencies. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiencies. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiencies have been corrected.

This action does not stop the sanctions clock that started for this area on July 9, 1994. However, this action will defer the imposition of the offsets sanction and will defer the imposition of the highway sanction. *See* 59 FR 39832 (Aug. 4, 1994). If EPA's 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 EPA must withdraw the direct final action based on adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiencies, EPA 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, to be codified at 40 CFR 52.31.

EPA Action

EPA is 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 deferred and imposition of the highway sanction will be deferred until EPA's direct final action fully approving the State's submittal becomes effective or until EPA takes action proposing or finally disapproving in whole or part the State submittal. If EPA's 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 EPA has preliminarily determined that the State has an approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is 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).

Regulatory Process

Small Businesses

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden placed on them by the sanctions provisions of the CAA. Therefore, I certify that it does not have an impact on any small entities.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this State implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this interim final action does not include a mandate that may result in estimated

costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget has waived review of this action from the requirements of Executive Order 12886.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping, Ozone, and Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 11, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–776 Filed 1–22–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OH91–1–7265a; FRL–5401–6]

Approval and Promulgation of Implementation Plans; Ohio; Interim Final Determination That State has Corrected Deficiencies

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Interim final determination.

SUMMARY: In the proposed rule section of today's Federal Register, USEPA is proposing to approve revisions to Ohio's particulate matter plans for Cuyahoga County and the Steubenville area that the State submitted on November 3, 1995. The notice of proposed rulemaking further proposes to conclude that the deficiencies in these plans identified in rulemaking published on May 27, 1994, at 59 FR 27464, have now been remedied. Based on that proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on June 27, 1994. Pursuant to 40 CFR 52.31, this action will defer the application of the offset sanction and potentially defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment. USEPA will take final action on this determination at the time it takes final action on the State's submittal.

DATES: This interim final determination is effective January 23, 1996. Comments must be received by February 22, 1996.

ADDRESSES: Comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION:

I. Background

On May 27, 1994, at 59 FR 27464, USEPA published a limited disapproval in the Federal Register of Ohio's particulate matter plans for Cuyahoga County and the Steubenville area. USEPA's disapproval action started an 18-month clock for the application of the offset sanction (followed by the highway funding sanction 6 months later) under section 179 of the Clean Air Act. The State subsequently submitted revisions to the particulate matter plans on November 3, 1995. In the Proposed Rules section of today's Federal Register, USEPA is proposing full approval of the State submittal.

Based on the proposed approval, USEPA believes that it is more likely than not that the State has corrected the deficiencies underlying the original disapproval. Therefore, USEPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiencies. Nevertheless, USEPA is providing the public with an opportunity to comment on this final action. If warranted, USEPA will reverse this determination, potentially in conjunction with reproposed action on the State's submittal. In any case, USEPA plans final action on its determination of whether the deficiencies have been corrected in conjunction with final rulemaking on the State's submittal.

This action does not stop the sanctions clock that started for this area on June 27, 1994. However, this action will defer the application of the offsets sanction and will defer the application of the highway sanction. See 59 FR 39832 (August 4, 1994), codified at 40 CFR 52.31. If USEPA determines, as a result of public comment, that the State's submittal is not fully approvable and this final action was inappropriate, USEPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency, at which time (subsequent to December 27, 1995) the offset sanction shall apply. Alternatively, if USEPA takes final action fully approving the State's submittal, such action will permanently stop the sanctions clock and will permanently lift any applied or deferred sanctions. In the meantime, pending further rulemaking, the application of sanctions will be deferred.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the deficiencies that started the sanctions clock with respect to particulate matter plans for the Cuyahoga County and Steubenville nonattainment areas. Based on this action, application of the offset sanction and the highway sanction will be deferred until final action fully approving the State's submittal becomes effective or until USEPA takes action proposing or finally disapproving in whole or part the State submittal. If USEPA takes final action fully approving the State submittal, the sanctions clocks will be permanently stopped and any applied or deferred sanctions will be permanently lifted.

Because USEPA has preliminarily determined that the State has an approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, USEPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.[1] 5 U.S.C. § 553(b)(B). USEPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. USEPA 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 deficiency that started the sanctions clock. Therefore, it is not in the public interest to initially impose sanctions when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, USEPA believes that it is necessary to use the interim final rulemaking process to temporarily defer sanctions while USEPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, USEPA is invoking the good cause exception to the 30-day notice requirement of the APA because the

[1] As previously noted, 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.