

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 266-0358c, FRL-7235-7]

Interim Final Determination That State Has Corrected the Rule Deficiencies and Deferral of Sanctions, Ventura County Air Pollution Control District, State of California**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has proposed full approval of revisions to the California State Implementation Plan (SIP). The revisions concern Ventura County Air Pollution Control District (District) Permitting Rule (Rule 10) and New Source Review (NSR) Rule (Rule 26). Based on the proposed full approval, EPA is making an interim final determination that the State has corrected deficiencies in the rule for which a sanction clock began on January 8, 2001. This action will defer the imposition of the offset and highway sanctions. Although this action is effective upon publication, EPA will take comment and will publish a final rule after considering comments received on this interim final determination.

DATES: This interim final determination is effective June 24, 2002. Comments must be received by July 24, 2002.

ADDRESSES: Written comments must be submitted to Nahid Zoueshtiagh (Air-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's technical support document (TSD) for this action are available for public inspection at EPA's Region IX office during normal business hours. The submitted rule revisions are also available for inspection at the following locations:

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California 93003.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95812.

An electronic copy of the TSD is available from EPA Region IX upon request. The District rules are also available on the Internet at: <http://arbis.arb.ca.gov/drdb/ven/cur.htm>

FOR FURTHER INFORMATION CONTACT: Nahid Zoueshtiagh, U.S. Environmental

Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 972-3978, e-mail address: zoueshtiagh.nahid@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On December 7, 2000, EPA published a limited approval and limited disapproval in the **Federal Register** (65 FR 76567). The effective date of our limited disapproval was January 8, 2001. 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). On May 20, 2002, the State subsequently submitted a revised version of Rules 10, 26.1, 26.2, 26.3, 26.4, 26.6, and the new Rule 26.11. In the Proposed Rules section of today's **Federal Register**, EPA is also proposing full approval of the May 20, 2002 submittal.

EPA is taking this interim final rulemaking action because it has determined that the District has corrected the deficiencies noted in its limited disapproval. However, EPA is also providing the public with an opportunity to comment on this interim final action. If, based on the comments on this action and the comments on EPA's proposed approval, EPA determines that the State's submittal is not approvable and this interim final action was inappropriate, EPA will propose to disapprove the State's submittal and will take interim final action finding that the State has not corrected the original disapproval deficiencies. Upon a final disapproval of the State's submittal, EPA would finalize the interim final finding, finding that the State has not corrected the deficiencies.

This action neither stops nor tolls the sanctions clock that started for these deficiencies on January 8, 2001, the effective date of limited approval and limited disapproval. However, this action will defer the imposition of the offset and highway sanctions. See 40 CFR 52.31(d)(2)(ii). If EPA takes final action approving the State's submittal after accepting comments on the proposed rule, such action will permanently stop the sanctions clock and will permanently lift any imposed, stayed or deferred sanctions. However, if at any time EPA determines that the State, in fact, did not correct the disapproval deficiencies, as appropriate, EPA either will withdraw this interim final determination or take action finding that the State has not corrected

the deficiencies. Such action will retrigger the sanctions consequences as described in 40 CFR 52.31 and would result in the immediate imposition of sanctions if the sanctions clock had expired.

II. EPA Action

Today we are 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 and highway sanctions will be deferred until EPA takes final action approving the State's submittal or EPA takes action proposing or finally disapproving in whole or part the State submittal. If EPA takes final action approving the State submittal, any sanctions clocks will be permanently stopped and any imposed, stayed or deferred sanctions will be permanently lifted.

We have preliminarily determined that the State has an approvable plan and implementing rules and relief from pending sanctions should be provided as quickly as possible. Therefore, we are 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).

III. Administrative 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. 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 defers federal sanctions. 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 only defers sanctions, it 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 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 defers sanctions, 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. This rule does not contain 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 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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule) 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). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of June 24, 2002. 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).

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 August 23, 2002. 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 rules. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: June 14, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

EPA Administered Permit Programs: The National Pollutant Discharge Elimination System

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 100 to 135, revised as of July 1, 2001, on pages 164 and 166, § 122.26 is corrected by revising paragraphs (c)(1) introductory text and (c)(1)(i)(E)(4), on page 167, by removing and reserving paragraph (c)(2), and on page 171, in paragraph (d)(2)(iii) introductory text, by revising the reference to “(d)(a)(iii)(A)(3)” to read “(d)(2)(iii)(A)(3)”, as follows:

§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).

* * * * *

(c) * * *

(1) *Individual application.*

Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit or any discharge of storm water which the Director is evaluating for designation (see § 124.52(c) of this chapter) under paragraph (a)(1)(v) of this section and is not a municipal storm sewer, shall submit an NPDES application in accordance with the requirements of § 122.21 as modified and supplemented by the provisions of this paragraph.

(i) * * *

(E) * * *

(4) Any information on the discharge required under § 122.21(g)(7)(vi) and (vii);

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7785]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (“Susp.”) listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Program Marketing and Partnership Division, Federal Insurance Administration and Mitigation Directorate, 500 C Street, SW.; Room 411, Washington, DC 20472, (202) 646-3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an