

43°51'21.8" N, longitude 76°11'58.2" W, thence to latitude 43°51'21.7" N, longitude 76°12'05.5" W, thence to latitude 43°51'33.4" N, longitude 76°12'06.2" W, thence to latitude 43°51'33.6" N, longitude 76°12'00.8" W, thence to the point of the beginning. All nautical positions are based on North American Datum 1983 (NAD 83).

2. Revert Anchorage Area A Back to Previous Smaller Size

(a) *Area A.* The area in the southern portion of Henderson Harbor west of the Henderson Harbor Yacht club bounded by a line beginning at 43°51'08.8" N, 76°12'08.9" W, thence to 43°51'09.0" N, 76°12'19.0" W, thence to 43°51'23.8" N, 76°12'19.0" W, thence to 43°51'23.8" N, 76°12'09.6" W, and then back to the beginning. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Area B.* The area in the southern portion of Henderson Harbor north of Graham Creek Entrance Light bounded by a line beginning at latitude 43°51'21.8" N, longitude 76°11'58.2" W, thence to latitude 43°51'21.7" N, longitude 76°12'05.5" W, thence to latitude 43°51'33.4" N, longitude 76°12'06.2" W, thence to latitude 43°51'33.6" N, longitude 76°12'00.8" W, thence to the point of the beginning. All nautical positions are based on North American Datum 1983 (NAD 83).

Dated: December 17, 2001.

James D. Hull,

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

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 252-0312c; FRL-7118-3]

Interim Final Determination That State Has Corrected the Deficiency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a direct final rulemaking fully approving revisions to the California State Implementation Plan. The revisions concern Mojave Desert Air Quality Management rule 1161. 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

direct final action, EPA will withdraw its direct final rule and will consider any comments received before taking final action on the State's submittal. Based on the proposal, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on May 11, 2000. This action will defer the imposition of the offset and highway sanctions. Although this action is effective upon publication, EPA will take comment. If no comments are received on EPA's 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 deficiency that started the sanctions clock. If comments are received on EPA's approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: This action becomes effective January 2, 2002. Comments must be received by February 1, 2002.

ADDRESSES: Written comments must be submitted to Andrew Steckel, Rulemaking Section (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR-4), Air Division, 75 Hawthorne Street, San Francisco, CA 94105
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.
Mohave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 972-3960

SUPPLEMENTARY INFORMATION:

I. Background

On June 29, 1995, the State submitted MDAQMD Rule 1161, for which EPA published a limited disapproval in the **Federal Register** on May 11, 2000. 65 FR 11674. 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 a revised version of this rule on November 8, 2001. EPA is taking direct final action on this submittal 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 MDAQMD Rule 1161. In addition, in the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State's submittal.

Based on the proposal 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 May 11, 2000. However, this action will defer the imposition of the offset and highway sanctions. 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 deficiency and the sanctions consequences described in the sanctions rule will apply.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiency that started the sanctions clock. Based on this action, imposition of the offset and highway sanctions 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 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).

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 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. 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 approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, 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 approves a state rule implementing a Federal standard, 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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. 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 March 4, 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 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 252-312a; FRL-7118-1]

Revisions to the California State Implementation Plan, Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen (NO_x) emissions from cement kilns. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on March 4, 2002 without further notice, unless EPA receives adverse comments by February 1, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR-4), Air Division, 75 Hawthorne Street, San Francisco, CA 94105.
California Air Resources Board, Stationary Source Division, Rule