

Instruction, from further environmental documentation because it is a safety zone.

Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

#### List of Subjects in 33 CFR Part 165

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

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

#### PART 165—[AMENDED]

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From December 8, 2004 to January 31, 2005, add temporary § 165.T17–009 to read as follows:

#### § 165.T17–009 Alaska Aerospace Development Corporation, Sitkinak Island, Kodiak Island, AK: Safety Zones

(a) *Description.* This safety zone includes an area in the Gulf of Alaska, west of Sitkinak Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area bounded by a line drawn from a point located at 56°40.50' N, 153°42.50' W, then southeast to a point located at 56°34.00' N, 153°29.50' W, then southwest to a point located at 56°12.50' N, 154°2.50' W, and then northwest to a point located at 56°19.00' N, 154°16.50' W, and then northeast to the point located at 56°40.50' N, 153°42.50' W. All coordinates reference Datum: NAD 1983.

(b) *Enforcement periods.* The safety zone in this section will be enforced from 1 p.m. 1 a.m. each day from December 8, 2004 to January 31, 2005.

(c) *Regulations.* (1) The Captain of the Port and the Duty Officer at Marine Safety Office, Anchorage, Alaska can be contacted at telephone number (907) 271–6700.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing the safety zone.

(3) The general regulations governing safety zones contained in ? 165.23 apply. No person or vessel may enter or remain in this safety zone, with the exception of attending vessels, without

first obtaining permission from the Captain of the Port or his on-scene representative.

The Captain of the Port, Western Alaska, or his on-scene representative may be contacted at the Kodiak Launch Complex via VHF marine channel 16.

Dated: December 2, 2004.

**T.D. Harrison,**

*Commander, U.S. Coast Guard, Captain of the Port, Western Alaska, Acting.*

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**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

#### 33 CFR Part 165

[CGD13–04–043]

**RIN 1625–AA00**

#### Security and Safety Zone; Protection of Large Passenger Vessels, Portland, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule; notice of suspension of enforcement.

**SUMMARY:** The Captain of the Port, Portland, OR, will suspend enforcement of the Large Passenger Vessel Security and Safety Zones that were created by a final rule published in the **Federal Register** on September 12, 2003. The zones provide for the security and safety of large passenger vessels in the navigable waters of Portland, OR, and adjacent waters. Enforcement of these security and safety zones will be suspended until further notice.

**DATES:** Enforcement of 33 CFR 165.1318 will be suspended commencing December 8, 2004.

**FOR FURTHER INFORMATION CONTACT:** LTjg B. Audirsch, c/o Captain of the Port Portland, OR 97217 at (503) 247–4015 to obtain information concerning enforcement of this rule.

**SUPPLEMENTARY INFORMATION:** On September 12, 2003, the Coast Guard published a final rule (68 FR 53677) establishing regulations in 33 CFR 165.1318 for the security and safety of large passenger vessels in the navigable waters of Portland, OR, and adjacent waters, of Oregon and Washington. These security and safety zones provide for the regulation of vessel traffic in the vicinity of certain large passenger vessels (as defined in 33 CFR 165.1318(b)) and exclude persons and vessels from the immediate vicinity of

these large passenger vessels. Entry into these zones is prohibited unless otherwise exempted or excluded under 33 CFR 165.1318 or unless authorized by the Captain of the Port or his designee. The Captain of the Port, Portland, OR, will suspend enforcement of the Large Passenger Vessel Safety and Security Zones established in 33 CFR 165.1318 on December 8, 2004.

Dated: December 8, 2004.

**Paul D. Jewell,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.*

[FR Doc. 04–27897 Filed 12–20–04; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[AZ 134–082, CA 250–0453, CA 310–0465; FRL–7847–6]

#### Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Services Department; Revisions to the California State Implementation Plan, South Coast Air Quality Management District; Disapproval of State Implementation Plan Revisions, Monterey Bay Unified Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP) and revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California SIP. The revisions for MCESD were proposed in the **Federal Register** on September 30, 2004, and concern volatile organic compound (VOC) emissions from solvent cleaning. The revisions for SCAQMD were proposed in the **Federal Register** on September 14, 2004, and concern oxides of nitrogen (NO<sub>x</sub>) and oxides of sulfur (SO<sub>x</sub>) emissions from facilities emitting 4 tons or more per year of NO<sub>x</sub> and/or SO<sub>x</sub> under the SCAQMD Regional Clean Air Incentives Market (RECLAIM). We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

EPA is also finalizing disapproval of a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) portion of the California State Implementation Plan (SIP). This

action was proposed in the **Federal Register** on June 1, 2004, and concerns excess emissions during breakdown. There are no sanctions associated with this disapproval.

**DATES:** This rule is effective on January 20, 2005.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency,  
Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.  
Air and Radiation Docket and Information Center, U.S.

Environmental Protection Agency,  
Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.  
Arizona Department of Environmental Quality, 1110 W. Washington Street, Phoenix, AZ 85007.  
Maricopa County Environmental Services Department, 1001 N. Central Avenue, Suite 695, Phoenix, AZ 85004.

A copy of MCESD Rule 331 may also be available via the Internet at <http://www.maricopa.gov/envsvc/AIR/ruledesc.asp>. Copies of SCAQMD Rule 2015 and MBUAPCD Rule 214 may be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that these are not EPA

websites and may not contain the same versions of the rules that were submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Francisco Dóñez, EPA Region IX, (415) 972-3956, [Donez.Francisco@epa.gov](mailto:Donez.Francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

### I. Proposed Action

On September 20, 2004 (69 FR 58375), and September 14, 2004 (69 FR 55386), respectively, EPA proposed to approve the following rules into the Arizona SIP (MCESD 331) and the California SIP (SCAQMD 2015).

Local agency	Rule No.	Rule title	Adopted	Submitted
MCESD .....	331	Solvent Cleaning .....	04/21/04	07/28/04
SCAQMD .....	2015	Backstop Provisions .....	06/04/04	07/29/04

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action

contains more information on the rules and our evaluation.

On June 1, 2004 (69 FR 30845), EPA proposed to disapprove the following

rule that was submitted for incorporation into the California SIP.

Local agency	Rule	Rule title	Adopted	Submitted
MBUAPCD .....	214	Breakdown Condition .....	03/21/01	10/30/01

We proposed to disapprove this rule because some rule provisions conflict with section 110 and part D of the Act. These provisions deal with district enforcement discretion. EPA considers it unproductive and potentially confusing to approve an enforcement discretion rule into the SIP.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

### II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period for each of these actions. We received no comments on any of these actions during the respective comment periods.

### III. EPA Action

No comments were submitted that change our assessment that MCESD Rule 331 and SCAQMD Rule 2015 comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the Arizona SIP (MCESD Rule 331) and the California SIP (SCAQMD Rule 2015).

No comments were submitted that change our assessment of MBUAPCD

Rule 214 as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, EPA is finalizing a full disapproval of the submitted rule. Because this is not a required submittal, there are no sanctions associated with this disapproval. Note that the submitted rule has been adopted by the MBUAPCD, and EPA's final disapproval does not prevent the local agency from enforcing it.

### IV. Statutory and Executive Order Reviews

#### A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

#### B. Paperwork Reduction Act

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.*)

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct

a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals and disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the States are already imposing. Therefore, because the Federal SIP action does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S.*

EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### *D. Unfunded Mandates Reform Act*

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval and disapproval actions promulgated do not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves or disapproves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *E. Executive Order 13132, Federalism*

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the

process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it merely approves or disapproves state rules implementing federal standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

*Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

#### *H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

#### *J. Congressional Review Act*

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). This rule will be effective January 20, 2005.

#### *K. Petitions for Judicial Review*

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 February 22, 2005. 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 relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 18, 2004.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

■ 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 *et seq.*

#### Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(117) to read as follows:

##### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(117) Amended regulation was submitted on July 28, 2004, by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(1) Rule 331 adopted on April 21, 2004.

\* \* \* \* \*

#### Subpart F—California

■ 3. Section 52.220 is amended by adding paragraph (c)(333) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(333) New and amended regulations for the following AQMD were submitted on July 29, 2004, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 2015 adopted on October 15, 1993 and amended on June 4, 2004.

■ 4. Section 52.271 is amended by adding paragraph (b)(7) to read as follows:

##### § 52.271 Malfunction, startup, and shutdown regulations.

\* \* \* \* \*

(b) \* \* \*

(7) Monterey Bay Unified Air Pollution Control District.

(i) Rule 214, Breakdown Condition, submitted on October 30, 2001.

\* \* \* \* \*

[FR Doc. 04-27883 Filed 12-20-04; 8:45 am]

BILLING CODE 6560-50-P

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[MM Docket No. 93-48]

#### Broadcast Services; Children's Television

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** The Federal Communications Commission has received Office of Management and Budget (OMB) approval for rules published at 61 FR 43981 (August 27, 1996). Therefore, the Commission announces that 47 CFR 73.673 and 47 CFR 73.3500 are effective January 2, 1997.

**DATES:** The rules in 47 CFR 73.673 and 47 CFR 73.3500 published at 61 FR 43981 (August 27, 1996) are effective January 2, 1997.

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission has received OMB approval for rules published at 61 FR 43981 (August 27, 1996). Through this document, the Commission announces that it received this approval on December 30, 1996. The effective date for rules 47 CFR 73.673 and 47 CFR 73.3500 is January 2, 1997.

Pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Cathy Williams, Federal Communications Commission, (202) 418-2918 or via the Internet at [cathy.williams@fcc.gov](mailto:cathy.williams@fcc.gov).

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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