

that were adopted from 1995 through 1999 and related amendments under COMAR 26.11.06, General Emission Standards, Prohibitions, and Restrictions, and COMAR 26.11.19, Volatile Organic Compounds from Specific Processes on November 1, 2001 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of November 1, 2002 from the Maryland Department of the Environment (MDE) transmitting revisions to COMAR 26.11.02, 26.11.06 and 26.11.19.

(B) The following new provisions of COMAR 26.11.02 (Permits, Approvals and Registration), effective May 8, 1995, replacing COMAR 26.11.02.01 through 26.11.02.16, as amended effective through April 26, 1993:

(1) COMAR 26.11.02.01A; 26.11.02.01B(2), (3), (7) through (9), (11) through (14), (17) through (21), (23) through (28), (34) through (36), (38), (40), (41), (43) through (45), (47), (48), (51) through (53), and (55); and 26.11.02.01C.

(2) COMAR 26.11.02.02 (except .02D), .03, .04 (except .04C(2)), .05 through .10, .11 (except .11C), and .12 through 14.

(C) Revision to COMAR 26.11.06.06E(4)(g), effective May 8, 1995.

(D) Revision to COMAR 26.11.19.02G(3)(b), effective May 8, 1995.

(E) Revisions to COMAR 26.11.02.01B(13), .06B (introductory paragraph) and .06B(5), .10O(2), .10Q(7), .10U, .10V, .11A(1), .12A(1) and (2), .14A(1); addition of 26.11.02.10O(13) and (14), .10W, .11A(2) and .12A(3); removal of 26.11.02.14A(2)—existing .14A(3) is renumbered as .14A(2), effective June 16, 1997.

(F) Revision to COMAR 26.11.02.10E, effective September 22, 1997.

(G) Revision to COMAR 26.11.02.09C, effective May 4, 1998.

(H) Revisions to COMAR 26.11.02.10C, .10V and .10W; addition

of COMAR 26.11.02.10X, effective March 22, 1999.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(182)(i) of this section.

**§ 52.1113 [Reserved]**

3. Section 52.1113 is reserved.

[FR Doc. 03-4510 Filed 2-26-03; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 269-0382a; FRL-7451-6]

**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<sub>x</sub>) emissions from Portland 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 April 28, 2003 without further notice, unless EPA receives adverse comments by March 31, 2003. 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:

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.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, California 92392.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Charnjit Bhullar, EPA Region IX, (415) 972-3960.

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

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**I. The State's Submittal**

*A. What Rule Did the State Submit?*

Table 1 lists the rule we are approving with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
MDAQMD .....	1161	Portland Cement Kilns .....	3/25/02	6/18/02

On July 23, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of This Rule?*

MDAQMD adopted an earlier version of this rule on October 22, 2001, and CARB submitted it to us on November 8, 2001. We published approval of this

previous version of Rule 1161 into the SIP on January 2, 2002 (67 FR 19).

*C. What Is the Purpose of the Submitted Rule Revisions?*

Rule 1161 applies to cement manufacturing operations within the Federal ozone non-attainment area

regulated by the MDAQMD. This rule controls emission of NO<sub>x</sub> from Portland cement kilns. On January 2, 2002, the EPA finalized approval of a previous version of this rule. CARB submitted comments on the previous version of proposed rule 1161 a few days prior to its scheduled adoption in October 2001. Because delaying adoption could have resulted in offset and highway sanctions for the region, MDAQMD committed to CARB that it would address CARB's comments no later than May 2002.

On March 25, 2002, MDAQMD adopted the amended rule 1161. On June 18, 2002, CARB submitted the revised version of rule 1161 for approval into the SIP. Rule 1161, as revised, addresses CARB's comments.

The TSD has more information about this rule.

**II. EPA's Evaluation and Action**

*A. How Is EPA Evaluating This Rule?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see sections 182(a)(2)(A) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The MDAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 1161 must fulfill RACT.

Guidance and policy documents that we used to help evaluate enforceability and RACT requirements consistently include the following:

- 1. Issue Relating to VOC Regulation, Cut points, Deficiencies, and Deviations

(the Blue Book), U.S. EPA, May 25, 1988.

2. "Guidance Document for Correcting VOC Rule Deficiencies", U.S. EPA Region 9, August 21, 2001 (the little bluebook).

3. State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendment of 1990 (the "NO<sub>x</sub> Supplement to the General Preamble"), U.S. EPA, 57 FR 55620, November 25, 1992.

4. Nitrogen Oxides (NO<sub>x</sub>) Reasonably Available Control Technology (RACT) for the Repowering of Utility Boilers, U.S. EPA Office of Air Quality Planning and Standards, March 9, 1994.

5. Alternative Control Techniques (ACT) Document, NO<sub>x</sub> Emission from Cement Manufacturing, U.S. EPA, March 1994, EPA 453/R-94-004.

6. State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown, dated September 20, 1999.

*B. Does This Rule Meet the Evaluation Criteria?*

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations.

The TSD has more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it

fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by March 31, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on April 28, 2003. This will incorporate this rule into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**III. Background Information**

*Why Was This Rule Submitted?*

NO<sub>x</sub> helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO<sub>x</sub> emissions. Table 2 lists some of the national milestones leading to the submittal of this local agency NO<sub>x</sub> rule.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978 .....	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988 .....	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990 .....	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
May 15, 1991 .....	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

**IV. Statutory and Executive Order Reviews**

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 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 (Pub. L. 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 April 28, 2003. 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.

Dated: January 31, 2003.

**Alexis Strauss,**

*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 F—California

2. Section 52.220 is amended by adding paragraph (c)(300) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(300) Amended regulations for the following APCDs were submitted on June 18, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Mojave Desert Air Quality Management District.

(1) Rule 1161 amended on March 25, 2002.

\* \* \* \* \*

[FR Doc. 03-4513 Filed 2-26-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD141/142-3095a; FRL-7450-2]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Miscellaneous Revisions

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). One revision removes from the SIP the state ambient air quality standard for hydrocarbons. The other revision removes an outdated citation of a current SIP provision regarding the granting of visible emissions exceptions by control officers. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on April 28, 2003 without further notice, unless EPA receives adverse written comment by March 31, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be addressed to Harold A. Frankford, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814-2108, or by e-mail at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 18, 2002 and November 26, 2002, the State of Maryland submitted formal revisions to its State Implementation Plan (SIP). These revisions consists of the removal of outdated and redundant provisions from the Maryland SIP. The November 18, 2002 revision (#85-03) removes the ambient air quality standard for hydrocarbons. The November 26, 2002 revision (#84-06) removes a provision from Maryland's regulations governing control of fuel burning equipment and internal stationary sources.

##### II. Summary of SIP Revisions

The fuel burning equipment provision being reviewed in this action allows control officers to grant visible emissions exceptions for small residential units and small heating