

Detroit Zone during July 2003. The following safety zones are in effect for fireworks displays occurring in the month of July 2003:

- *City of Wyandotte Fireworks, Wyandotte, MI.*

*Location.* The waters off the breakwall between Oak & Van Alstyne St., Detroit River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°12' N, 083°09' W.

*Enforcement period.* July 2, 2003, from 7 p.m. until 11 p.m.

- *Caseville Fireworks, Caseville, MI.*  
*Location.* The waters off the Caseville breakwall, Saginaw River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°55' N, 083°17' W.

*Enforcement period.* July 5, 2003, from 7 p.m. until 11 p.m.

- *Lake Erie Metro Park Fireworks.*  
*Location.* The waters off the Brownstown Wave Pool area, Lake Erie bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°03' N, 083°11' W.

*Enforcement period.* July 5, 2003, from 8 p.m. until 11 p.m.

- *Trenton Fireworks Display, Trenton, MI.*

*Location.* All waters of the Trenton Channel within a 300-yard radius of the fireworks barge in approximate position 42°09' N, 083°10' W, about 200 yards east of Trenton, in the Trenton Channel.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Port Sanilac Fireworks, Port Sanilac, MI.*

*Location.* The waters off the South Harbor breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°25' N, 082°31' W.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *City of Ecorse Water Festival Fireworks, Ecorse, MI.*

*Location.* All waters of the Ecorse Channel within a 300-yard radius of the fireworks barge in approximate position 42°14' N, 083°09' W, at the northern end of Mud Island, Ecorse.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Port Austin Fireworks.*  
*Location.* The waters off the Port Austin breakwall on Lake Huron, bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°03' N, 082°40' W.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Tawas City 4th of July Fireworks, Tawas, MI.*

*Location.* The waters off the Tawas City Pier, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 44°13' N, 083°30' W.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Belle Maer Harbor 4th of July Fireworks, Harrison Township, MI.*  
*Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°36' N, 082°47' W, about 400 yards east of Belle Maer Harbor, Lake St. Clair—Anchor Bay.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Grosse Ile Yacht Club Fireworks, Grosse Ile, MI.*

*Location.* The waters off the Grosse Ile Yacht Club deck, Detroit River bounded by the arc of a circle with a 300-yard radius with its center approximately located at 42°05' N, 083°09' W.

*Enforcement period.* July 4, 2003, from 8 p.m. to 11 p.m.

- *Oscoda Township Fireworks.*  
*Location.* The waters off the DNR Boat Launch at the mouth of the Ausable River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 44°19' N, 083°25' W.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Grosse Pointe Yacht Club 4th of July Fireworks, Grosse Pointe Shores, MI.*

*Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°25' N, 082°52' W, about 400 yards east of the Grosse Pointe Yacht Club seawall, Lake St. Clair.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *City of St. Clair Fireworks.*  
*Location.* The waters off St. Clair City Park, St. Clair River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°49' N, 082°29' W.

*Enforcement period.* July 4, 2003, from 8 p.m. until 12 a.m.

- *Algonac Pickerel Tournament Fireworks, Algonac, MI.*

*Location.* All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°37' N, 082°32' W, between Algonac and Russell Island, St. Clair River—North Channel.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Lexington Independence Festival Fireworks, Lexington, MI.*

*Location.* All waters of Lake Huron within a 300-yard radius of the fireworks barge in approximate position

43°13' N, 082°30' W, about 300 yards east of the Lexington breakwall, Lake Huron.

*Enforcement period.* July 4, 2003, from 8 p.m. until 11 p.m.

- *Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI.*

*Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°23' N, 082°52' W, about 300 yards east of Grosse Pointe Farms.

*Enforcement period.* July 5, 2003, from 8 p.m. to 11 p.m.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be in effect for the duration of the events. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on channel 16, VHF-FM.

Dated: June 10, 2003.

**P.G. Gerrity,**

*Commander, Coast Guard, Captain of the Port Detroit.*

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BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[KY-142, 144-200330, FRL-7516-1]

### Approval and Promulgation of Implementation Plans: Revisions to the Kentucky Nitrogen Oxides Budget and Allowance Trading Program

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky on February 28, 2003. This submittal revises the new source set-aside program by altering the methodology for distributing nitrogen oxides allowances. Rather than grant allowances, the Commonwealth of Kentucky will sell them. This revision also includes clarification language and changes to definitions.

**EFFECTIVE DATE:** This final rule is effective on July 24, 2003.

**ADDRESSES:** Copies of Kentucky's submittals and other information relevant to this action are available for

inspection during normal business hours at the following addresses:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601-1403.

Persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day and reference files KY-142.

**FOR FURTHER INFORMATION CONTACT:**

Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW.; Atlanta, Georgia 30303-8960. Mr. Lakeman can also be reached by phone at (404) 562-9043 or by electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:** On February 28, 2003, the Commonwealth of Kentucky's Natural Resources and Environmental Protection Cabinet submitted revisions to EPA that revises definitions and the new source set-aside program by altering the methodology for distributing nitrogen oxides (NO<sub>x</sub>) allowances. The Commonwealth of Kentucky has revised their new source set-aside program and will sell the allowances that were previously reserved to allocate to new electric generating units (EGUs). The Commonwealth will continue to reserve an established percentage of the non-EGU budget for new non-EGU units. This is a clarification from the proposal notice in which we previously indicated that the new source set-asides for both EGUs and non-EGUs would be sold.

**I. Final Action**

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory requirements. A detailed description of this SIP revision and EPA's rationale for approving it was provided in the proposed notice and will not be restated here. No significant or adverse comments were received on EPA's proposal.

**II. 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 August 25, 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 6, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ Chapter I, title 40, *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 S—Kentucky**

■ 2. Section 52.920(c) is amended by revising entries for "401 KAR 51:001" and "401-KAR-51:160" to read as follows:

**§ 52.920 Identification of plan.**

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(c) \* \* \*.

EPA-APPROVED KENTUCKY REGULATIONS FOR KENTUCKY

Regulation	Title/subject	State effective date	EPA approval date	Federal Register notice
*	*	*	*	*
<b>Chapter 51 New Source Requirements; Non-Attainment Areas</b>				
401 KAR 51:001 .....	Definitions .....	12/18/02	6/24/03 .....	[Insert Federal Register cite for this publication].
*	*	*	*	*
401 KAR 51:160 .....	NO <sub>x</sub> Requirements for Large Utility and Industrial Boilers.	12/18/02	6/24/03 .....	[Insert Federal Register cite for this publication].

\* \* \* \* \*  
 [FR Doc. 03-15660 Filed 6-23-03; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA286-0404B; FRL-7517-9]

**Interim Final Determination That the State of California Has Corrected Deficiencies and Stay and Deferral of Sanctions; San Joaquin Valley Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination that the State of California has corrected deficiencies for which a sanctions clock began on December 10, 2001, based on a proposed approval of revisions to the San Joaquin Valley ozone nonattainment area portion of the California State Implementation Plan (SIP) and an associated proposed finding published elsewhere in today's **Federal Register**. The revisions concern commitments for adoption of control measures for attaining the 1-hour ozone national ambient air quality standard. This action will stay the 2:1 offset sanctions that was imposed in the area on June 10, 2003 and defer the imposition of the highway sanctions.

**DATES:** This interim final determination is effective on June 24, 2003. However, comments will be accepted until July 24, 2003.

**ADDRESSES:** Mail comments to Doris Lo at *lo.doris@epa.gov* or at U.S. Environmental Protection Agency (Air-2), 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect copies of the submitted SIP revision at the following locations by appointment:

- Planning Office (AIR-2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA
- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA
- San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg, Fresno, CA

**FOR FURTHER INFORMATION CONTACT:** Doris Lo, EPA Region IX, (415) 972-3959.

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

**I. Background**

On January 8, 1997 (62 FR 1149), EPA published a final approval of the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the 1994 California ozone SIP. This SIP included, among other things, a commitment to adopt and implement 19 local control measures. On November 8, 2001 (66 FR 56476), EPA found that the SJVUAPCD had failed to implement six of the 19 control measure commitments. This finding began a sanctions clock for imposition of 2:1 offset sanctions 18 months after December 11, 2001, and highway sanctions 6 months later, pursuant to section 179 of the Clean Air Act (CAA). The offset sanction was imposed on June 11, 2003.

On December 6, 2001, SJVUAPCD adopted a revised set of control measure commitments that was intended in part to address EPA's previous finding regarding non-implementation of the SIP. On June 11, 2002, the State submitted these revised commitments to EPA. In the Proposed Rules section of today's **Federal Register**, we have proposed approval of this submittal and have proposed to find that adoption and

implementation of specified rules in the submittal and 14 CCR 1774 and 13 CCR 2450-2466 correct the deficiencies that resulted in the previous finding regarding non-implementation.

**II. EPA Action**

Based on today's proposed approval and finding, we believe that it is more likely than not that the State has corrected the deficiencies that resulted in the non-implementation finding that started the offset and highway sanctions clocks. We are therefore taking final rulemaking action, effective on publication, to stay the offset sanctions and defer imposition of the highway sanctions that were triggered by our November 8, 2001 finding.

EPA is providing the public with an opportunity to comment on this final action. If comments are submitted that change our assessment described in this final determination and the proposed approval of the revised commitments and associated finding, we intend to take subsequent final action to reimpose sanctions pursuant to 40 CFR 51.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of a final rule approval and finding.

Because EPA has preliminarily determined that the State has corrected the deficiencies that resulted in EPA's finding of non-implementation, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). 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.