- Mojave Desert Air Quality Management District, 15428 Civic Drive, Victorville, CA 92392
- South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Nikole Reaksecker, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1187.

SUPPLEMENTARY INFORMATION:

I. Background

On June 19, 1992, September 14, 1992, and May 13, 1993, the State submitted MDAQMD Rule 1116 SCAQMD Rule 1126, and SCAQMD Rule 1151 for which EPA published limited disapprovals in the Federal Register on December 20, 1993. 58 FR 66285, 58 FR 66283. On May 13, 1993, the State submitted SCAQMD Rule 1125 for which EPA published a limited disapproval in the Federal Register on April 14, 1994. 59 FR 17697. EPA's disapproval actions started 18-month clocks for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (Act), and 24-month clocks for promulgation of a Federal Implementation Plan (FIP) under section 110(c) of the Act. The State subsequently submitted revised rules on January 24, 1995, February 24, 1995, and March 31, 1995. EPA has taken direct final action on these submittals pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of this Federal Register EPA is issuing a direct final full approval of the State of California's submittal of SCAQMD Rule 1125, Metal Container, Closure, and Coil Coating Operations; SCAQMD Rule 1126, Magnet Wire Coating Operations; SCAQMD Rule 1151, Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations; and MDAQMD Rule 1116, Automotive Refinishing Operations. In addition, in the Proposed Rules section of this Federal Register EPA is proposing full approval of the State's submittals.

Based on the proposed and direct final approval, 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 submittals, EPA determines that the State's submittals are 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 not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred and/or stayed.

This action does not stop the sanctions clocks that started for these areas on December 20, 1993 and April 14, 1994. However, this action will defer the application of the offsets sanctions and will defer the application of the highway sanctions. 59 FR 39832 (Aug. 4, 1994). If EPA's direct final action fully approving the State's submittals becomes effective, such action will permanently stop the sanctions clocks and will permanently lift any applied, 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 deficiencies and the sanctions consequences described in the sanctions rule will apply. 59 FR 39832, to be codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clocks. Based on this action, application of the offset sanctions will be deferred and application of the highway sanctions will be deferred until EPA's direct final action fully approving the State's submittals becomes effective or until EPA takes action proposing or finally disapproving in whole or part the State submittals. If EPA's direct final action fully approving the State submittals becomes effective, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred 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 under the Administrative Procedure Act (APA) in not providing an opportunity for

comment before this action takes effect.1 5 U.S.C. 553(b)(B). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittals and, through its proposed and direct final action is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiencies that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice and comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittals. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittals. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-forprofit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping

¹ As previously noted, 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.