

(d) EPA approved State Source-Specific Requirements.

## EPA-APPROVED VIRGINIA SOURCE-SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Norfolk Naval Base-Exchange Service Station .....	[NONE]	8/6/79	8/17/81 46 FR 41499	52.2465(c)(41).
Reynolds Metal Co.—Rolling Mill .....	DSE-597-87	9/30/87	8/20/90 55 FR 33904	52.2465(c)(92).
Aqualon (Hercules) Company .....	50363	9/26/90	11/1/91 56 FR 56159	52.2465(c)(93).
Nabisco Brands, Inc .....	DTE-179-91	4/24/91	3/6/92 57 FR 8080	52.2465(c)(95).
Burlington Industries .....	30401	11/19/91	3/18/92 57 FR 9388	52.2465(c)(96).
Reynolds Metals Co.—Bellwood .....	DSE-413A-86	10/31/86	6/13/96 61 FR 29963	52.2465(c)(110).
Reynolds Metals Co.—South .....	DSE-412A-86			
Philip Morris, Inc.—Bended Leaf Facility .....	50080	2/27/86	10/14/97 62 FR 53277	52.2465(c)(120).
Philip Morris, Inc.—Park 500 Facility .....	50722	3/26/97		
Philip Morris, Inc.—Richmond Manufacturing Center .....	50076	7/13/96		
Virginia Electric and Power Co.—Innsbrook Technical Center.	50396	5/30/96		
Hercules, Inc.—Aqualon Division .....	V-0163-96	7/12/96		
City of Hopewell—Regional Wastewater Treatment Facility.	50735	5/30/96		
Allied Signal, Inc.—Hopewell Plant .....	50232	3/26/97	10/14/97 62 FR 53277	52.2465(c)(121).
Allied Signal, Inc.—Chesterfield Plant .....	V-0114-96	5/20/96		
Bear Island Paper Co. L.P .....	V-135-96	7/12/96		
Stone Container Corp.—Hopewell Mill .....	50370	5/30/96		
E.I. duPont de Nemours and Co.—Spruance Plant .....	V-0117-96	5/30/96	10/14/97 62 FR 53277	52.2465(c)(121).
ICI Americas Inc.—Films Division—Hopewell Site .....	50418	5/30/96		
Tuscarora, Inc .....	71814	6/5/96	1/22/99 64 FR 3425	52.2465(c)(128).

(e) [Reserved]

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BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 031-0174a; FRL-6580-3]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Lake County Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the following: Lake County Air Quality Management District (LCAQMD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). The rules control particulate matter (PM) emissions from open burning or processes identified by a weight rate

throughput. This approval action will incorporate these rules into the federally-approved SIP. The intended effect of approving these rules is to regulate emissions of PM in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA). Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for attainment and nonattainment areas.

**DATES:** This rule is effective on June 20, 2000 without further notice, unless EPA receives relevant adverse comments by May 22, 2000. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Comments must be submitted in writing to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are

available for inspection at the following locations:

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

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Lake County Air Quality Management District, 883 Lakeport Boulevard, Lakeport, CA 95453.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office, (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1135.

#### SUPPLEMENTARY INFORMATION:

##### I. Applicability

The rules being approved into the California SIP include: LCAQMD

Section (Rule) 226.5, Fire Season-Burn Ban; LCAQMD Section (Rule) 431.5, (Non-Agricultural Burning); LCAQMD Section (Rule) 433, (Exemption-Residential); Lake County Section (Rule) 1150, Wildland Vegetation Management Burning; and SJVUAPCD Rule 4202, Particulate Matter-Emission Rate. These rules were submitted by the California Air Resources Board (CARB) to EPA on July 23, 1999, March 26, 1990, March 10, 1998, February 7, 1989, and September 28, 1994, respectively.

## II. Background

On March 3, 1978, EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the provisions of the 1977 Clean Air Act, that included the San Joaquin Valley Air Basin (43 FR 8964; 40 CFR 81.305). On July 1, 1987 (52 FR 24672) EPA replaced the TSP standards with new PM standards applying only to PM up to 10 microns in diameter (PM-10).<sup>1</sup> On November 15, 1990, amendments to the 1977 CAA were enacted (Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671*g*). On the date of enactment of the 1990 CAA Amendments, PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law and classified as moderate or serious pursuant to section 188(a). Lake County was not among the areas designated nonattainment. On February 8, 1993, EPA classified four nonattainment areas as serious nonattainment, including the San Joaquin Valley Planning Area, which now comprises the SJVUAPCD.

Section 189(a) of the CAA requires moderate and above PM-10 nonattainment areas to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT) for stationary

sources of PM-10. Section 189(b) of the CAA requires serious nonattainment areas to adopt best available control measures (BACM) for significant sources of PM-10, including best available control technology (BACT). Therefore, SJVUAPCD must at a minimum meet the requirements of RACM. SJVUAPCD must also adopt BACM. However, EPA is deferring decision on the specific BACM requirements until EPA acts on SJVUAPCD's BACM plan<sup>2</sup> at a later date and will evaluate the rule by the requirements of RACM.

In response to section 110(a) and part D of the Act, the State of California submitted many PM-10 rules for incorporation into the California SIP, including the rules being acted on in this document. This document addresses EPA's direct-final action for the following:

LCAQMD Sections (Rules) 226.5, 431.5, 433, and 1150 were adopted September 13, 1988, June 13, 1989, July 15, 1997, and December 6, 1988, respectively; submitted by the State of California for incorporation into the SIP on July 23, 1999, March 26, 1990, March 10, 1998, and February 7, 1989, respectively; and found to be complete pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>3</sup> on August 24, 1999, June 20, 1990, May 21, 1998, and May 5, 1989, respectively.

SJVUAPCD Rule 4202, Particulate Matter-Emission Rate, was adopted December 17, 1992, submitted by the State of California for incorporation into the SIP on September 28, 1994, and found to be complete on November 22, 1994.

PM emissions can harm human health and the environment. These rules were adopted as part of LCAQMD and SJVUAPCD efforts to maintain the National Ambient Air Quality Standard (NAAQS) for PM-10. The following is EPA's evaluation and final action for these rules.

## III. EPA Evaluation and Action

In determining the approvability of a PM-10 rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA must also ensure that rules are enforceable and

strengthen or maintain the SIP's control strategy.

The statutory provisions relating to RACM/RACM and BACM/BACT are discussed in EPA's "General Preamble," which give the Agency's preliminary views on how EPA intends to act on SIPs submitted under Title I of the CAA. See 57 FR 13498 (April 16, 1992), 57 FR 18070 (April 28, 1992) and 59 FR 41998 (August 16, 1994). In this rulemaking action, EPA is applying these policies to this submittal, taking into consideration the specific factual issues presented.

EPA previously reviewed rules from LCAQMD and SJVUAPCD and incorporated them into the federally approved SIP pursuant to section 110(k)(3) of the CAA.

There is currently no version of LCAQMD Section (Rule) 226.5, Fire Season-Burn Ban, in the SIP. This is a new rule that strengthens the SIP by prohibiting open burning from June 1 through the end of the fire season.

On October 23, 1989, EPA approved into the SIP a version of LCAQMD Section (Rule) 431.5, (Non-Agricultural Burning). Submitted Section (Rule) 431.5 replaces the SIP-approved rule and includes the following significant change that strengthens the SIP:

- Extends the prohibition against non-agricultural open burning from June 1 to the end of the fire season to include No-Burn Days designated by the APCO or by the CARB.

On October 23, 1989, EPA approved into the SIP a version of LCAQMD Section (Rule) 433, (Non-Agricultural Burning). Submitted Section (Rule) 433 replaces the SIP-approved rule and includes the following significant change that strengthens the SIP:

- Adds a prohibition against using "burn barrels" for residential open burning.

There is currently no version of LCAQMD Section (Rule) 1150, Wildland Vegetation Management Burning, in the SIP. This is a new rule that strengthens the SIP by regulating wildland vegetation management burning, including requiring a burn plan for over 20 acres.

On various dates, EPA approved into the SIP versions of Particulate Matter-Emission Rate rules for the eight counties that now comprise the SJVUAPCD. Submitted Rule 4202, Particulate Matter-Emission Rate, replaces these rules and includes no significant changes from the SIP versions from the eight counties. EPA has determined that submitted Rule 4202 meets the requirements of RACM.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA

<sup>1</sup> On July 18, 1997 EPA promulgated revised and new standards for PM-10 and PM-2.5 (62 FR 38651). The U.S. Court of Appeals for the D.C. Circuit in *American Trucking Assoc., Inc., et al. v. USEPA*, No. 97-1440 (May 14, 1999) issued an opinion that, among other things, vacated the new standards for PM-10 that were published on July 18, 1997 and became effective September 16, 1997. However, the PM-10 standards promulgated on July 1, 1987 were not an issue in this litigation, and the Court's decision does not affect the applicability of those standards in this area. Codification of those standards continue to be recorded at 40 CFR 50.6. In the notice promulgating the new PM-10 standards, the EPA Administrator decided that the previous PM-10 standards that were promulgated on July 1, 1987, and provisions associated with them, would continue to apply in areas subject to the 1987 PM-10 standards until certain conditions specified in 40 CFR 50.6(d) are met. See 62 FR at 38701. EPA has not taken any action under 40 CFR 50.6(d) for this area. Today's proposed action relates only to the CAA requirements concerning the PM-10 standards as originally promulgated in 1987.

<sup>2</sup> The present submittal of the SJVUAPCD PM-10 Attainment Demonstration Plan, May 15, 1997, must be revised in order to be approved by EPA.

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

regulations, and EPA policy. Therefore, the following rules are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D:

- LCAQMD Section (Rule) 226.5, Fire Season-Burn Ban (submitted July 23, 1999).
- LCAQMD Section (Rule) 431.5, (Non-Agricultural Burning) (submitted March 26, 1990).
- LCAQMD Section (Rule) 433, (Exemption-Residential) (submitted March 10, 1998).
- LCAQMD Section (Rule) 1150, Wildland Vegetation Management Burning (submitted February 7, 1989).
- SJVUAPCD Rule 4202, Particulate Matter-Emission Rate (submitted September 28, 1994).

A more detailed evaluation can be found in EPA's evaluation reports for these rules.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective June 20, 2000 without further notice unless the Agency receives relevant adverse comments by May 22, 2000.

If the EPA receives such comments, then EPA will publish a timely withdrawal informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 20, 2000 and no further action will be taken on the proposed rule.

#### IV. 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. 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 (64 FR 43255, August 10, 1999), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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 June 20, 2000. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 30, 2000.

**Laura Yoshii,**

*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 paragraphs (c)(177)(i)(F)(2), (c)(179)(i)(F)(2), (c)(199)(i)(D)(7), (c)(254)(i)(J)(2), and (c)(268)(i)(C) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(177) \* \* \*

(i) \* \* \*

(F) \* \* \*

(2) Section (Rule) 1150, adopted on December 6, 1988.

\* \* \* \* \*

(179) \* \* \*

(i) \* \* \*

(F) \* \* \*

(2) Section (Rule) 431.5, adopted on June 13, 1989.

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(199) \* \* \*

(i) \* \* \*

(D) \* \* \*

(7) Rule 4202, adopted on December 17, 1992.

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(254) \* \* \*

(i) \* \* \*

(J) \* \* \*

(2) Sections (Rules) 433, adopted on July 15, 1997.

\* \* \* \* \*

(268) \* \* \*

(i) \* \* \*

(C) Lake County Air Quality Management District.

(1) Section (Rule) 226.5, adopted on September 13, 1988.

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[FR Doc. 00-9650 Filed 4-20-00; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[SIP NOS. MT-001-0012; MT-001-0013; MT-001-0014; MT-001-0015 FRL-6582-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Montana; Emergency Episode Plan, Columbia Falls, Butte and Missoula Particulate Matter State Implementation Plans, Missoula Carbon Monoxide State Implementation Plan; Correction

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

**ACTION:** Direct final rule; correction.

**SUMMARY:** The EPA published in the *Federal Register* on December 6, 1999, a document that, among other things, approved updates to Montana's State Implementation Plan (SIP) relating to the Emergency Episode Plan; Columbia Falls, Butte and Missoula Particulate Matter [particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10)] SIPs; and the Missoula Carbon Monoxide (CO) Plan. In the December 6, 1999, rule, EPA inadvertently referenced an incorrect citation to Missouri's SIP in the Code of Federal Regulations. EPA is correcting the citation with this document.

**EFFECTIVE DATE:** This rule is effective on April 21, 2000.

#### FOR FURTHER INFORMATION CONTACT:

Laurie Ostrand, EPA, Region VIII, (303) 312-6437.

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," or "our" are used we mean EPA.

Our December 6, 1999 (64 FR 68034) rulemaking indicated that on November 3, 1995 (60 FR 55792) we approved revisions to Montana's prevention of significant deterioration (PSD) regulations. With the November 3, 1995 document we inadvertently codified the revisions into 40 CFR 52.1320(c)(42) in lieu of CFR 52.1370(c)(42). Our December 6, 1999 document indicated that we were removing these revisions from 40 CFR 52.1320(c)(42) and adding them to 40 CFR 52.1370(c)(42). However, when we published the December 6, 1999 rule, we did not realize that on June 29, 1999 (64 FR 34717) 40 CFR 52.1320 had been redesignated as 40 CFR 52.1322. Therefore, our December 6, 1999 document should have removed 40 CFR 52.1322(c)(42) and not 40 CFR 52.1320(c)(42).

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### Administrative Requirements

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not

significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding,