

(348) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 9310, "School Bus Fleets," adopted on September 21, 2006.

\* \* \* \* \*

(369) New and amended plans were submitted on November 15, 2004 by the Governor's designee.

(i) Incorporation by reference.

(A) State of California Air Resources Board.

(1) ARB Resolution No. 04-29. Commitment to achieve additional emission reductions in the San Joaquin Valley Air Basin of 10 tons per day (tpd) of nitrogen oxides and 15 tpd of volatile organic compounds by 2010 as described on page 5 of Resolution No. 04-29 October 28, 2004 and page 29 of "Staff Report, Proposed 2004 State Implementation Plan for Ozone in the San Joaquin Valley, release date September 28, 2004."

(ii) Additional Material.

(A) San Joaquin Valley Air Pollution Control District.

(1) Extreme Ozone Attainment Demonstration Plan, as adopted by the SJVAPCD on October 8, 2004 and by the California Air Resource Board on October 28, 2005.

(370) An amended plan was submitted on March 6, 2006 by the Governor's designee.

(i) [Reserved]

(ii) Additional Material.

(A) San Joaquin Valley Air Pollution Control District.

(1) Amendments to the 2004 Extreme Ozone Attainment Demonstration Plan adopted by the SJVAPCD on October 20, 2005 and by CARB on March 3, 2006.

(B) State of California Air Resources Board.

(1) Executive Order G-126-336, dated March 3, 2005 (year is correctly 2006).

(371) An amended plan was submitted on September 8, 2008 by the Governor's designee.

(i) [Reserved]

(ii) Additional Material.

(A) San Joaquin Valley Air Pollution Control District.

(1) "Clarifications Regarding the 2004 Extreme Ozone Attainment Demonstration Plan for the Revoked Federal 1-hr Ozone Standard" adopted by the SJVAPCD on August 31, 2008 and by CARB on September 5, 2008.

(B) State of California Air Resources Board.

(1) Executive Order S-08-012, "Approval and Submittal of Amendments to the 2004 San Joaquin Valley 1-hour Ozone Attainment Plan," dated September 5, 2008.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 450

[EPA-HQ-OW-2008-0465; FRL-9118-7]

RIN 2040-AE91

### Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category; Correction

**AGENCY:** Environmental Protection Agency.

**ACTION:** Correcting amendments.

**SUMMARY:** The Environmental Protection Agency (EPA) is correcting a date in a final rule that appeared in the **Federal Register** on December 1, 2009, 74 FR 62995, due to a date calculation error. The final rule established Clean Water Act technology-based Effluent Limitations Guidelines and New Source Performance Standards for the Construction and Development point source category.

**DATES:** Effective on March 8, 2010.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jesse W. Pritts at 202-566-1038 ([pritts.jesse@epa.gov](mailto:pritts.jesse@epa.gov)).

#### SUPPLEMENTARY INFORMATION:

#### Correction of Final Rule

The Environmental Protection Agency is correcting a final rule that appeared in the **Federal Register** on Tuesday, December 1, 2009, 74 FR 62995. The final rule established Clean Water Act technology-based Effluent Limitations Guidelines and New Source Performance Standards for the Construction and Development (C&D) point source category. The final C&D rule as signed by the Administrator on November 29, 2009 and posted, pre-publication, on <http://www.epa.gov> set an applicable date for the numeric effluent limitation and associated monitoring requirements for sites that disturb 20 or more acres of land at one time for 20 months from the publication of the rule in the **Federal Register**. That date was expressed as a calculation: "20 months after the date of publication of the final rule" or (in other places) "18 months after the effective date of the rule." The date would be the same under either calculation, because the effective date of the rule was two months after publication. That date is indicated in several locations throughout the preamble of the final rule. See e.g., 74 FR 63050. A member of the public reading the preamble and regulatory text of the final rule as sent to the Office of the Federal Register (OFR) for publication and published on EPA's

Web site would easily be able to calculate the date intended by this rule and would certainly understand that compliance with the numeric effluent limitation and associated monitoring requirements would be required later than 2010.

The rule was effective on February 1, 2010. Calculated correctly, this means that August 1, 2011, is the date by which discharges from construction sites that disturb 20 or more acres of land at one time must comply with the numeric effluent limitation and monitoring requirements.

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. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because such notice and opportunity for comment is unnecessary and contrary to public interest.

#### Related Acts of Congress, Executive Orders and Agency Initiatives

Under Executive Order 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, 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) Public Law 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 government, as specified in 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, 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, 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.* EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the December 1, 2009 **Federal Register** notice. 74 FR 62995.

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 has made such a good cause finding, including the reasons therefor, and established an effective date of March 8, 2010. The effective date of today's correction is earlier than 30 days after publication. EPA finds that the earlier effective date clarifies the applicability date of the numeric effluent limit and associated monitoring requirements for sites that disturb 20 or more acres of land at one time for all stakeholders. Today's amendment eliminates an inconsistency and thus, reduces the opportunity for confusion. Any additional delay in correcting the error would only increase the potential

confusion. Thus, EPA sets an effective date to make the correction immediately effective. 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**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 450

Environmental protection, Construction industry, Land development, Erosion, Sediment, Stormwater, Water pollution control.

Dated: March 1, 2010.

**Peter S. Silva,**

*Assistant Administrator for Water.*

■ Accordingly, 40 CFR Part 450 is corrected by making the following correcting amendments:

#### PART 450—CONSTRUCTION AND DEVELOPMENT POINT SOURCE CATEGORY

■ 1. The authority citation for part 450 continues to read as follows:

**Authority:** 42 U.S.C. 101, 301, 304, 306, 308, 401, 402, 501 and 510.

■ 2. Revise the introductory text of paragraph (a) of § 450.22 to read as follows:

#### § 450.22 Effluent limitations reflecting the best available technology economically achievable (BAT).

\* \* \* \* \*

(a) Beginning no later than August 1, 2011 during construction activity that disturbs 20 or more acres of land at one time, including non-contiguous land disturbances that take place at the same time and are part of a larger common plan of development or sale; and no later than February 2, 2014 during construction activity that disturbs ten or more acres of land area at one time, including non-contiguous land disturbances that take place at the same time and are part of a larger common plan of development or sale, the following requirements apply:

\* \* \* \* \*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[ET Docket No. 03-108; FCC 10-12]

### Cognitive Radio Technologies and Software Defined Radios

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document dismisses a petition for reconsideration filed by the SDR Forum requesting that the Commission modify the policy statements it made in the *Memorandum Opinion and Order (MO&O)* in this proceeding concerning the use of open source software to implement security features in software defined radios (SDRs). While, the Commission dismisses this petition on procedural grounds, it also provides clarification concerning the issues raised therein.

**DATES:** Effective April 7, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Hugh Van Tuyl, Policy and Rules Division, Office of Engineering and Technology, (202) 418-7506, e-mail: [Hugh.VanTuyl@fcc.gov](mailto:Hugh.VanTuyl@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, ET Docket No. 03-108, adopted January 14, 2010, and released January 19, 2010. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

#### Summary of the Memorandum Opinion and Order

1. On March 17, 2005, the Commission adopted the *Cognitive Radio Report and Order*, 70 FR 23032, May 4, 2005, in which the rules were modified to reflect ongoing technical developments in cognitive and software defined radio (SDR) technologies.

2. On April 20, 2007, the Commission adopted a *Memorandum Opinion and Order (MO&O)*, 72 FR 31190, June 6, 2007, which responded to two petitions filed in response to the *Cognitive Radio Report and Order*. The Commission,