

responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine event permit are specifically excluded from further analysis and documentation under those sections. Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion

Determination" are not required for this rule.

### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.35–T05–097 to read as follows:

#### § 100.35–T05–097 Delaware River, Philadelphia, PA, Camden, NJ.

(a) *Regulated area.* The regulated area is established for the waters of the Delaware River, adjacent to Philadelphia, PA and Camden, NJ, from shoreline to shoreline, bounded on the south by the Walt Whitman Bridge and bounded on the north by the Benjamin Franklin Bridge. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Delaware Bay.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Delaware Bay with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Regulations:* (1) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the Patrol Commander. The Patrol Commander may intermittently authorize general navigation to pass through the regulated area. Notice of these opportunities will be given via marine safety radio broadcast on VHF–FM marine band radio, channel 16 (156.8 MHz) and channel 22 (157.1 MHz).

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be effective from 11:30 a.m. to 5:30 p.m. on October 8 and 9, 2005.

Dated: September 15, 2005.

**S. Ratti,**

*Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.*

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**BILLING CODE 4910–15–P**

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD01–05–088]

#### Drawbridge Operation Regulations: Fort Point Channel, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Northern Avenue Bridge, mile 0.1, across Fort Point Channel at Boston, Massachusetts. A one-hour advance notice will be required for bridge openings from 7 a.m. to 11 p.m., September 15, 2005 through October 31, 2005, and from 7 a.m. to 3 p.m., November 1, 2005 through November 14, 2005. This temporary deviation is necessary to facilitate bridge maintenance repairs.

**DATES:** This deviation is effective from September 15, 2005 through November 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

**SUPPLEMENTARY INFORMATION:** The Northern Avenue Bridge has a vertical clearance in the closed position of 7 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.599.

The owner of the bridge, the City of Boston, requested a temporary deviation from the drawbridge operation regulations to facilitate replacement of the submarine power supply cable at the bridge. The old power supply cable failed and until it can be replaced the bridge must temporarily operate using an electrical generator.

Additional time is necessary for bridge openings as a result of the use of the temporary generator in order to start and adjust the generator voltage prior to opening the bridge. A one-hour advance notice is necessary to allow sufficient

time for the bridge operator to open the bridge after a request is given.

Under this temporary deviation the Northern Avenue Bridge shall open on signal after a one-hour advance notice is given from 7 a.m. to 11 p.m., September 15, 2005 through October 31, 2005, and from 7 a.m. to 3 p.m., November 1, 2005 through November 14, 2005. From 11 p.m. to 7 a.m., September 15, 2005 through October 31, 2005, the bridge shall open on signal after a two-hour notice is given. From 3 p.m. to 7 a.m., November 1, 2005 through November 14, 2005, the bridge shall open on signal after a twenty-four hour notice is given.

Mariners may request bridge openings by calling the bridge operator on channel 13 or by telephone at (617) 635-7520.

This deviation from the operating regulations is authorized under 33 CFR 117.35(b), and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: September 15, 2005.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TX-126-1-7691; FRL-7974-7]

### Approval and Promulgation of Implementation Plans; Texas; Transportation Control Measures in the Dallas/Fort Worth Ozone Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving revisions to the Texas Ozone State Implementation Plan (SIP). This approval incorporates the Transportation Control Measures, submitted by the Governor of Texas on April 25, 2000 (as substituted by the Texas Commission on Environmental Quality on January 14, 2004), into the SIP for the Dallas/Fort Worth Ozone Nonattainment Area. The inclusion of Transportation Control Measures in the SIP fulfills one requirement found under Section 182(c)(5) of the Federal Clean Air Act which provides that serious ozone nonattainment areas incorporate such measures into the state air quality plan. This action also fulfills

of EPA's obligations under a Federal district court Consent Decree to act on these measures (70 FR 32326).

**DATES:** This rule is effective on October 27, 2005.

**ADDRESSES:** Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

Copies of any State submittals are also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Peggy Wade, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, telephone (214) 665-7247; fax number (214) 665-7263; e-mail address [Wade.Peggy@epa.gov](mailto:Wade.Peggy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refers to EPA.

#### Outline

- I. What Action Is EPA Taking?
- II. What is the Background for This Action?
- III. What Comments Were Received During the Public Comment Period?
- IV. Final Action
- V. Statutory and Executive Order Reviews

#### I. What Action Is EPA Taking?

The EPA is approving the Transportation Control Measures (TCM) for the Dallas-Fort Worth 1-hour ozone nonattainment area (*i.e.*, Collin, Dallas, Denton and Tarrant counties) submitted by Texas on April 25, 2000. In addition, we note that certain changes to the original TCMs occurred as they were substituted in January 2004 in accordance with the Texas TCM substitution rule (30 TAC 114.270; see 67 FR 72379) and the EPA guidance

document Policy Guidance on the Adoption and Use of SIP TCM Substitution Mechanisms in SIPs (EPA Office of Transportation and Air Quality, April 7, 2004). The Texas TCM substitution rule provides a mechanism in Texas to allow an area to substitute TCMs without the requirement of a SIP revision.

#### II. What Is the Background for This Action?

A SIP revision for the Dallas-Fort Worth (DFW) 1-hour ozone nonattainment area was submitted to EPA by the State of Texas on April 25, 2000. This SIP revision contained many control measures designed to improve the air quality in the DFW area. EPA has since approved, in separate **Federal Register** notices, a number of aspects of this SIP submittal. EPA proposed approval of the TCMs in this SIP, which are located in Appendix G, on January 18, 2001 (66 FR 4756). Our proposed approval of these original TCMs did not remove or revise any previously approved TCMs in the SIP. The total emission reductions creditable to the TCMs contained in this appendix are 4.73 tons per day (tpd) of nitrogen oxide (NO<sub>x</sub>) emissions and 2.95 tpd of volatile organic compounds (VOC) emissions in the 4-county nonattainment area. These TCMs are scheduled to be implemented no later than July, 2007. These TCMs strengthen the SIP and comply with the requirements of section 110(l) of the Clean Air Act. Specific details on these TCMs, and the amount of reductions attributable to each measure, are available in the Technical Support Document associated with this action.

The EPA transportation conformity regulations define TCMs as any measure specifically identified and committed to in the SIP that is either one of the types listed in the Clean Air Act (CAA) at Section 108(f)(1)(A), or any other measure with the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. According to the transportation conformity regulations, Metropolitan Planning Organizations (MPO), such as the North Central Texas Council of Governments (NCTCOG), must demonstrate timely implementation of TCMs by incorporation into the area's Metropolitan Transportation Plan (MTP) and Transportation Improvement Program (TIP) with appropriate funding dedicated to each TCM (40 CFR 93.113).

In some cases, the MPO might find itself unable to demonstrate that TCMs are meeting the timely implementation criteria because obstacles to