

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, the Coast Guard did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under figure 2-1, paragraph (34)(g), of the Instruction as this rule involves establishing safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary safety zones § 165.T01-0502 to read as follows:

### § 165.T01-0502 Safety Zones; Swim Events within the Sector New York Captain of the Port Zone.

(a) *Location.* The following swim events include safety zones as described herein:

(1) Swim Across America 2010 LIS Swim, Glen Cove, NY to Larchmont, NY.

(i) All waters of Long Island Sound, from surface to bottom, within 100-yard radius around the swimmers swimming from Morgan Park Beach, Glen Cove, NY to Larchmont Shore Club, Larchmont, NY.

(ii) *Effective Date.* This rule will be effective from 5:30 a.m. through 10:30 p.m. on July 24, 2010 and August 14, 2010.

(2) Newburgh to Beacon Swim, Newburgh, NY to Beacon, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming from the waterfront at Newburgh, NY to the waterfront at Beacon, NY.

(ii) *Effective Date.* This rule will be effective from 11:30 a.m. to 1:30 p.m. on July 31, 2010.

(3) Brooklyn Bridge Swim, Brooklyn, NY.

(i) All waters of the East River from surface to bottom, within a 100-yard radius around the swimmers swimming in the waters of the East River from Brooklyn Bridge Park to East River Park, Brooklyn.

(ii) *Effective Date.* This rule will be effective from 11:45 a.m. to 1:30 p.m. on September 11, 2010.

(4) Hudson River Swim for Life, Nyack, NY to Sleepy Hollow, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming from Nyack, NY to Kingsland Point Park, Sleepy Hollow, NY.

(ii) *Effective Date.* This rule will be effective from 9 a.m. to 12:30 p.m. on September 12, 2010.

(5) Toughman Half Iron Triathlon, Hudson River, Croton Point Park, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming in the vicinity of Haverstraw Bay, Croton Point Park, Westchester County, NY.

(ii) *Effective Date.* This rule will be effective from 6 a.m. to 10 a.m. on September 12, 2010.

(b) *Definitions.* The following definition applies to this section: Designated representative means any commissioned, warrant and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, State, and Federal law

enforcement vessels that have been authorized to act on behalf of the Captain of the Port New York.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port New York or a designated representative. Persons desiring to transit within any of the safety zones established in this section may contact the Captain of the Port at telephone number 718-354-4398 or via on-scene patrol personnel on VHF channel 16 to seek authorization.

If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port New York or the designated representative.

(d) *Enforcement period.* This section will be enforced from 3:30 a.m. to 11:59 p.m. on various dates from July 24 to September 12, 2010.

Dated: July 22, 2010.

**G.P. Hitchen,**

*Captain, U.S. Coast Guard, Acting, Captain of the Port New York.*

[FR Doc. 2010-21311 Filed 8-25-10; 8:45 am]

**BILLING CODE 9110-04-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R04-OAR-2007-1186-201021; FRL-9193-4]

#### Approval and Promulgation of Air Quality Implementation Plans: Kentucky; Approval Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the Paducah Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision to the Kentucky State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standards for the Paducah 1997 8-hour ozone attainment area, which comprises Marshall County and a portion of Livingston County (hereafter referred to as the "Paducah Area"). This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) through the year 2020. On July 15, 2009, the Commonwealth of Kentucky submitted supplemental information with updated

emissions tables for this Area to reflect actual emissions. This plan meets the statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is taking final action to approve the revisions to the Kentucky SIP, pursuant to the Clean Air Act (CAA). EPA is also in the process of establishing a new 8-hour ozone NAAQS, and expects to finalize the reconsidered NAAQS by August 2010. Today's action, however, relates only to the 1997 8-hour ozone NAAQS. Requirements for the Paducah Area under the 2010 NAAQS will be addressed in the future.

**DATES:** This rule will be effective September 27, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2007-1186. All documents in the electronic docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the 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. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Zuri Farnago, 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. Farnago may be reached by phone at (404) 562-9152 or by electronic mail address [farnago.zuri@epa.gov](mailto:farnago.zuri@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Background
- II. EPA Guidance and CAA Requirements
- III. Today's Action
- IV. Final Action
- V. Statutory and Executive Order Reviews

**I. Background**

In accordance with the CAA, the Paducah Area, consisting of Marshall County and a portion of Livingston County in Kentucky, was designated as marginal nonattainment for the 1-hour ozone NAAQS effective November 6, 1991 (56 FR 56694) because the Area did not meet the 1-hour ozone NAAQS. On November 13, 1992, the Commonwealth of Kentucky submitted a request to redesignate the Paducah Area to attainment for the 1-hour ozone NAAQS. At the same time as the redesignation request, Kentucky submitted the required ozone monitoring data and maintenance plan to ensure that the Paducah Area would remain in attainment for the 1-hour ozone NAAQS for a period of 10 years, consistent with the CAA section 175A(a). The maintenance plan submitted by Kentucky followed EPA guidance for limited maintenance areas, which applied to 1-hour ozone NAAQS areas with design values less than 85 percent of the applicable standard (0.12 parts per million). On February 7, 1995, EPA approved Kentucky's request to redesignate the Paducah Area (60 FR 7124) to attainment for the 1-hour ozone NAAQS.

**II. EPA Guidance and CAA Requirements**

On April 30, 2004, EPA designated areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase I Implementation Rule for the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase I Rule). The Paducah Area was designated attainment for the 1997 8-hour ozone NAAQS, effective June 15, 2004. The Paducah attainment area consequently was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase I Rule, 40 CFR 51.905(a)(4). On May 20, 2005, EPA issued guidance providing information as to how a state might fulfill the maintenance plan obligation established by the CAA and the Phase I Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005—hereafter referred to as "Wegman Memorandum").

On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated portions of EPA's Phase I Rule. *See South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (DC Cir. 2006). The Court vacated those portions of the Phase I Rule that provided for regulation of the 1997

8-hour ozone nonattainment areas designated under Subpart 1 (of part D of the CAA), in lieu of Subpart 2 among other portions. The Court's decision did not alter any 8-hour ozone attainment area requirements under the Phase I Rule for CAA section 110(a)(1) maintenance plans. EPA has determined that Kentucky's May 27, 2008, proposed SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Paducah attainment area.

**III. Today's Action**

EPA is taking final action to approve the SIP revisions concerning the 110(a)(1) maintenance plan addressing the 1997 8-hour ozone NAAQS for the Paducah Area. This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky to ensure the continued attainment of the 1997 8-hour ozone NAAQS through the year 2020. This approval action is based on EPA's analyses of whether this request complies with section 110 of the CAA and section 51.905(a)(4). EPA's analyses for the Commonwealth of Kentucky's submittal are described in detail in the proposed rule published January 4, 2010 (75 FR 97).

The comment period for this proposed action closed on February 3, 2010. EPA did not receive any comments, adverse or otherwise, during this public comment period. However, EPA noticed an inadvertent omission of the July 15, 2009, supplement that Kentucky provided from the electronic docket at <http://www.regulations.gov>. Since EPA referenced this supplement in the January 4, 2010, proposed rulemaking, EPA reopened the public comment period for this proposed action for the limited purpose of allowing the public the opportunity to review and consider this supplemental information in regards to EPA's proposed rulemaking (75 FR 8574). EPA's reopening of the comment period ended on March 25, 2010. During this additional comment period, EPA did not receive any comments.

In support of this final action, the Commonwealth of Kentucky provided an analysis of emissions differences for the highway mobile source emissions using a Reid Vapor Pressure (RVP) level of 9.0 pounds per square inch (psi), which is the applicable standard during the regulatory control period (*i.e.*, May 1st through September 15th). *See* 40 CFR 80.27. In its original submission, the Commonwealth of Kentucky had modeled 8.6 psi based on historical information that indicated that summer

time RVP supplied to the Paducah Area averaged 8.6 psi. EPA considers the original submittal to model a more stringent RVP; however, in order to ensure that Kentucky could demonstrate attainment with a higher RVP, Kentucky provided the supplemental information.

Subsequently, the Commonwealth of Kentucky provided modeling at the 9.0 psi level. EPA reviewed this additional information and noted that there was no change in emissions for nitrogen oxides (NO<sub>x</sub>) and a slight increase (less than a tenth of a ton per day) in emissions of

volatile organic compounds (VOC) with RVP at the 9.0 psi level as compared to the 8.6 psi level. The difference in total highway emissions for each year emissions was provided and is included in the following table:

#### PADUCAH AREA HIGHWAY MOBILE SOURCE EMISSIONS

[Tons per day]

	8.6 psi		9.0 psi		Difference between 8.6 psi & 9.0 psi	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
	2002 .....	1.14	1.90	1.19	1.90	0.05
2005 .....	1.62	3.36	1.67	3.36	0.05	0.00
2008 .....	1.47	3.00	1.52	3.00	0.05	0.00
2011 .....	1.32	2.49	1.36	2.49	0.04	0.00
2014 .....	1.14	1.90	1.19	1.90	0.05	0.00
2017 .....	1.04	1.51	1.07	1.52	0.03	0.01
2020 .....	0.94	1.27	0.97	1.27	0.03	0.00

EPA has made the determination that, even with the slight increase in VOC emissions due to the difference of modeling 9.0 psi versus 8.6 psi, Kentucky has demonstrated continued maintenance for the 1997 8-hour NAAQS for the Paducah Area. Further, EPA believes that Kentucky's 110(a)(1) submission for the Paducah Area meets the CAA requirements in addition to EPA policy and guidance.

#### IV. Final Action

Pursuant to Section 110 of the CAA, EPA is approving the maintenance plan addressing the 1997 8-hour ozone NAAQS for the Paducah Area, which was submitted by Kentucky on May 27, 2008, and ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2020. EPA has evaluated the Commonwealth's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy. EPA's rationale is explained in the proposed action.

On March 12, 2008, EPA issued a revised ozone NAAQS. EPA subsequently announced a reconsideration of the 2008 NAAQS, and proposed new 8-hour ozone NAAQS in January 2010. A final 8-hour ozone NAAQS is expected in August 2010. The current action, however, is being taken to address requirements under the 1997 ozone NAAQS. Requirements for the Paducah Area under the 2010 NAAQS will be addressed in the future.

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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**

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 11, 2010.

**A. Stanley Meiburg,**  
*Acting Regional Administrator, Region 4.*

**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(e), is amended by adding a new entry for the “Paducah 8-Hour Ozone Attainment/1-Hour Ozone Maintenance Plan Section 110(a)(1)” at the end of the table to read as follows:

**§ 52.920 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Paducah 8-Hour Ozone Attainment/1-Hour Ozone Maintenance Plan Section 110(a)(1).	Marshall and Livingston Counties.	May 27, 2008 .....	August 26, 2010 [insert citation of publication].	

[FR Doc. 2010-21107 Filed 8-25-10; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2007-0113-200709(c); FRL-9193-5]

**Approval and Promulgation of Implementation Plans Georgia: State Implementation Plan Revision; Correction**

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** On February 9, 2010, EPA published a direct final rule approving revisions to the Georgia State Implementation Plan submitted by the Georgia Environmental Protection Division on September 26, 2006, with a clarifying revision submitted on November 6, 2006. This action corrects a typographical error in the regulatory text in Table (c) of the aforementioned **Federal Register** notice.

**DATES:** This action is effective August 26, 2010.

**ADDRESSES:** Copies of the documentation used in the action being corrected are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-

8960. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynorae Benjamin, 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. Ms. Benjamin can be reached at 404-562-9040, or via electronic mail at [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

**SUPPLEMENTARY INFORMATION:** This action corrects a typographical error in the regulatory language for an entry that appears in Table (c) of Georgia’s Identification of Plan section at 40 CFR 52.570. The direct final action which approved the addition of new rule 391-3-1-.02(2)(rrr), “NO<sub>x</sub> Emissions from Small Fuel-Burning Equipment,” was approved by EPA on February 9, 2010 (75 FR 6309). However, EPA inadvertently listed new rule (rrr) as being revised, rather than added as a new entry, in Table (c). Therefore, EPA is correcting this typographical error by clarifying that rule 391-3-1-.02(2)(rrr) is being added as a new entry to Table (c)—EPA Approved Georgia Regulations.

EPA has determined that today’s action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with

public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because today’s action to clarify the addition of new rule 391-3-1-.02(2)(rrr), in Table (c) of the rulemaking, has no substantive impact on EPA’s February 9, 2010, approval of this regulation. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction of this table entry, or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the meaning of EPA’s analysis or action to approve the addition of rule 391-3-1-.02(2)(rrr) to the Georgia SIP.

EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today’s rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today’s rule merely corrects a typographical error in