

**§ 165.T08-049 Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, Louisiana.**

(a) *Location.* Within the Lower Mississippi River and Southwest Pass, temporary moving security zones are established around all cruise ships between the Southwest Pass Entrance Lighted Buoy "SW", at approximate position 28°52'42" N, 89°25'54" W [NAD 83] and Lower Mississippi River mile marker 96.0 in New Orleans, Louisiana. These temporary moving security zones encompass all waters within 500 yards of a cruise ship. These zones remain in effect during the entire transit of the vessel and continue while the cruise ship is moored or anchored.

(b) *Effective period.* This section is effective from 8 a.m. on May 29, 2002, through 8 a.m. on October 15, 2002.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Regulations.* (1) Entry of persons and vessels into these zones is prohibited unless authorized as follows.

(i) Vessels may enter within 500 yards but not closer than 100 yards of a cruise ship provided they operate at the minimum speed necessary to maintain a safe course.

(ii) No person or vessel may enter within 100 yards of a cruise ship unless expressly authorized by the Coast Guard Captain of the Port New Orleans.

(iii) Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 yards of a cruise ship while it is in transit.

(2) Vessels requiring entry within 500 yards of a cruise ship that cannot slow to the minimum speed necessary to maintain a safe course must request express permission to proceed from the Captain of the Port New Orleans or his designated representative.

(3) For the purpose of this section the term "cruise ship" is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

(4) The Captain of the Port New Orleans will inform the public of the moving security zones around cruise ships via Marine Safety Information Broadcasts.

(5) To request permission as required by these regulations contact "New Orleans Traffic" via VHF Channels 13/67 or via phone at (504) 589-2780 or (504) 589-6261.

(6) All persons and vessels within the moving security zones shall comply with the instructions of the Captain of the Port New Orleans and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: May 29, 2002.

**R.W. Branch,**

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

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[PA159-4189a; FRL-7211-7]**

### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The revisions are changes to Pennsylvania's air resource regulations. The changes will make Pennsylvania's regulations consistent with Federal requirements, delete obsolete and unnecessary provisions, and apply Pennsylvania's monitoring requirements in a consistent fashion for all affected sources. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on August 12, 2002, without further notice, unless EPA receives adverse written comment by July 11, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division,

U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto at (215) 814-2182, the EPA Region III address above or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov). Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

On March 6, 2000, PADEP submitted a formal revision to the Pennsylvania State Implementation Plan (SIP). The SIP revision consists of changes to Pennsylvania's air resource regulations.

#### **II. Summary of SIP Revision**

The changes to Chapter 121, section 121.1, relating to definitions, modifies the definitions of coke oven battery, coke oven gas collector main, and door area. In each case, the changes make the definitions consistent with Federal definitions of these terms promulgated under the CAA. The amendments to Chapter 123, section 123.44, relating to the standards for contaminants of visible emissions, make the regulation consistent with the maximum achievable control technology (MACT) for coke ovens promulgated by EPA under the CAA.

The amendments to Chapter 137, section 137.4, relating to air pollution episodes, change the provisions for standby plans to address air pollution episodes. Specifically, subsection (b) is revised by classifying each county as an area requiring a standby plan based on monitored exceedances of any national ambient air quality standard (NAAQS). The existing regulation lists each pollutant along with its ambient concentration. The PADEP references NAAQS as a reference point for determining counties subject to the standby plan requirements. In addition, subsection (c) requires sources located in area requiring standby plans to submit such plans upon request. This provision will conform to section 137.4 to the existing requirements in section 127.411(a)(8). Finally, subsection (f) clarifies that standby plan shall be provided by the individual responsible for the operation of the entire facility.

Chapter 139 is being revised in five ways. First, section 139.12, relating to emissions of particulate matter, deletes a portion of the sampling requirement, which make the provisions for particulate matter testing and monitoring of coke oven emissions consistent with Federal requirements. Second, section 139.61, relating to monitoring requirements, is being deleted. This provision has been superceded by the promulgation of the coke oven MACT standard by EPA. This change will make the regulation consistent with the Federal requirements. Third, section 139.101, relating to general requirements, changes the requirements related to data availability for data captured by a continuous emission monitor (CEM). A general data availability requirement in section 139.101 was adopted in 1990, and CEMs covered in section 139.104, relating to sulfur dioxide and nitrogen oxides monitoring requirements for combustion sources, were grandfathered. With the deletion of section 139.104, the general data availability standard in section 139.101 applies. CEMs would be required to do the following minimum data availability requirements: (1) In each calendar month, at least 90 percent of the time periods for which an emission standard or an operational parameter applies shall be valid; or (2) in each calendar quarter, at least 95 percent of the hours during which the monitored source is operating shall be valid. Fourth, the requirements of section 139.104 have been deleted and monitoring requirements have been established under the general provisions of section 139.101. Finally, the changes to section 139.111, relating to waste incinerator monitoring requirements, establish consistent data availability requirements for all continuous emission monitoring provisions applicable to municipal waste incinerators to hospital waste incinerators. These incinerators, generally, are similar in nature and the monitoring requirements are applicable to both.

### III. Final Action

EPA is approving the revisions to the Commonwealth of Pennsylvania's air resource regulations submitted by PADEP on March 6, 2000. The revisions amend Chapter 121, General Provisions, section 121.1, Definitions; Chapter 123, section 123.44, Visible Emissions; Chapter 137, section 137.4, Standby Plans; Chapter 139, section 139.12, Emissions of Particulate Matter; and Chapter 139, section 139.111, Waste Incinerator Monitoring Requirements. EPA is publishing this rule without

prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 12, 2002, without further notice unless EPA receives adverse comment by July 11, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### IV. Administrative Requirements

#### A. General 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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). 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). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal

Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 action 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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.*).

#### B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### C. Petitions for Judicial Review

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 August 12, 2002. 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 approving the revisions to the Pennsylvania's air resource regulations 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 8, 2002.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(189) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(189) Revisions to the Commonwealth of Pennsylvania Regulations pertaining to the Pennsylvania's air resource regulations submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting revisions to the Commonwealth's Regulations pertaining to the Pennsylvania's air resource regulations.

(B) Revisions to 25 PA Code, Part I, Subpart C, Article III, effective December 27, 1997.

(1) Revisions to Chapter 121, General Provisions, section 121.1, revised definitions for coke oven battery, coke oven gas collector main, and door area.

(2) Revisions to Chapter 123, section 123.44, Visible Emissions—Limitations

of fugitive air contaminants from operation of any coke oven battery, paragraphs (a) and (a)(1).

(3) Revisions to Chapter 137, section 137.4, Standby Plans, paragraphs (b), (c) and (f).

(4) Revisions to Chapter 139, section 139.12, Emissions of Particulate Matter, paragraphs (1) and (5).

(5) Revisions to Chapter 139, section 139.111, Waste Incinerator Monitoring Requirements, introductory paragraph, and paragraphs (1)(i), (2) and (3).

(6) Deletion of Chapter 139, section 139.61.

(7) Deletion of Chapter 139, section 139.104. In its place, the provisions of Chapter 139.101 will now apply.

(C) Revisions to 25 PA Code, Part I, Subpart C, Article III, effective May 7, 1998.

(1) Revisions to Chapter 139, section 139.12, Emissions of Particulate Matter, paragraph (2).

(2) Revisions to Chapter 139, section 139.101, General Requirements, paragraph (12)(ii).

(ii) Additional Material.—Remainder of the State submittal(s) pertaining to the revisions listed in paragraph (c)(189)(i) of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD062-3087a; FRL-7220-1]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Visible Emissions and Open Fire Amendments

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the Maryland State Implementation Plan (SIP). These revisions establish the exemption of certain intermittent visible emissions (VE) at Federal facilities, amend open burning distance limitations, and establish specific requirements for safety determinations at Federal facilities. EPA is fully approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on August 12, 2002 without further notice, unless EPA receives adverse written comment by July 11, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the

**Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

**FOR FURTHER INFORMATION CONTACT:** Betty Harris, (215) 814-2168, or by e-mail at harris.betty@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

### SUPPLEMENTARY INFORMATION:

#### I. Background

On February 6, 1998, the State of Maryland submitted formal revisions to its State Implementation Plan (SIP). These revisions submitted by the Maryland Department of the Environment (MDE) establish an exemption of certain intermittent visible emissions (VE) at Federal facilities, amend open burning distance limitations, and establish specific requirements for safety determinations at Federal facilities.

#### II. Summary of SIP Revision

COMAR 26.11.06.02 exempts certain intermittent visible emissions at Federal facilities, COMAR 26.11.07 establishes specific requirements that apply to safety determinations at Federal facilities, and COMAR 26.11.07.03 (B) amends the distance limitations associated with open burning activities.

The primary purpose of COMAR 26.11.06.02 is to exempt certain intermittent visible emissions at Federal facilities from the general visible emission requirements of the SIP. The function of some Federal facilities and other sources under contract with the Federal government is to test and perform demonstrations on weapons, munitions and other devices and to prepare safety procedures for proper handling and transportation. Under