

7. *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. *Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. *Civil Justice Reform*

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. *Protection of Children*

We have analyzed this rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. *Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it does 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.

12. *Energy Effects*

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. *Technical Standards*

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

14. *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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of a temporary safety zone to protect persons and property from potential hazards associated with the scheduled University of Cincinnati Bearcats Football Fireworks taking place on or over the Ohio River. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, 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. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. A new temporary safety zone § 165.T08–0419 is added to read as follows:

§ 165.T08–0419 Safety Zone; University of Cincinnati Bearcats Football Fireworks; Ohio River, Mile 470.4–470.8, Cincinnati, OH.

(a) *Location.* The following area is a temporary safety zone: All waters of the Ohio River, surface to bottom, from mile 470.4 to mile 470.8 on the Ohio River at Cincinnati, Ohio. These markings are based on the United States Army Corps of Engineers’ *Ohio River Navigation Charts* (Chart 115 June 2010).

(b) *Effective dates and enforcement periods.* This safety zone is effective from September 12, 2014 through December 6, 2014, and will be enforced from 9:30 p.m. to 11:30 p.m. on the

following dates: September 12 and 20; October 4 and 24; November 13; and December 6, 2014. For purposes of enforcement, actual notice will be given beginning September 12, 2014.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, movement within, or departure from this zone is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into, departure from, or movement within a regulated area must request permission from the Captain of the Port Ohio Valley or a designated representative. They may be contacted on VHF–FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1–800–253–7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

(d) *Informational broadcasts.* The COTP Ohio Valley or a designated representative will inform the public through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate of the enforcement period for each safety zone as well as any changes in the planned and published dates and times of enforcement.

Dated: September 9, 2014.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2014–26427 Filed 11–5–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22

[EPA–HQ–OECA–2014–0551; FRL–9914–32–OECA]

RIN 2020–AA50

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This direct final rule revises the scope of the Environmental

Protection Agency's (EPA) Consolidated Rules of Practice governing the administrative assessment of civil penalties to encompass the assessment of civil penalties under the air pollution control provisions of the Act to Prevent Pollution from Ships. The EPA has not previously established adjudicatory procedures for the assessment of civil penalties under that statute.

Establishment of such procedures will provide for the efficient and effective adjudication, including administrative appeals, of such proceedings consistent with statutory requirements. This rule also revises the address for the Environmental Appeals Board to reflect its relocation to the William Jefferson Clinton East Building.

DATES: This rule is effective on January 5, 2015 without further notice, unless the EPA receives adverse comment by December 8, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OECA-2014-0551, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email*: [docket.oeca@epa.gov.]
3. *Fax*: (202) 566-9744.
4. *Mail*: Environmental Protection Agency, OECA Docket, Mail-Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
5. *Hand Delivery*: EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. Attention Docket No. EPA-HQ-OECA-2014-0551. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OECA-2014-0551. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information

unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or at the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OECA Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: Meetu Kaul, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, William Jefferson Clinton Building South, Room 1117B, 1200 Pennsylvania Ave. NW., Mail Code 2242A, Washington, DC 20460, phone number (202) 564-5472 or by email at *kaul.meetu@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Why is the EPA using a direct final rule?

The EPA is publishing this rule in advance of receipt of public comment on the companion proposed rule because the EPA anticipates that this

rule is noncontroversial and does not anticipate adverse comment. In the "Proposed Rules" section of this **Federal Register**, the EPA is publishing an otherwise identical companion proposed rule to invite public comment on the provisions of this direct final rule. Any parties interested in commenting on the provisions of the proposed rule must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If the EPA receives adverse comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. The EPA would address adverse comments received either in that notice or in a subsequent final rule based on the proposed rule.

II. Does this action apply to me?

This action may affect parties involved in EPA administrative adjudicatory proceedings for the assessment of civil penalties under section 1908(b) of the Act to Prevent Pollution from Ships (33 U.S.C. 1908(b)). You may direct questions regarding the applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

III. What should I consider as I prepare my comments for EPA?

A. Submitting CBI

Do not submit this information to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

IV. Summary of Rule

A. EPA's Consolidated Rules of Practice Governing Adjudication of Administrative Penalty Assessments

The EPA is authorized to institute administrative enforcement proceedings against alleged violators under a variety of environmental statutes, including the Clean Air Act, the Clean Water Act, and the Federal Insecticide, Fungicide, and Rodenticide Act, among others. Such cases are generally heard by the Administrative Law Judges (ALJs) within EPA's Office of Administrative Law Judges and by presiding officers in administrative proceedings not governed by section 554 of the Administrative Procedure Act. The federal regulations that govern the proceedings before the ALJs and presiding officers are codified at 40 CFR Part 22, entitled "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (Rules of Practice). The EPA promulgated the Rules of Practice to establish uniform procedural rules for administrative enforcement proceedings required to be held on the record after opportunity for a hearing in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* The Rules of Practice also establish uniform procedural rules for proceedings not governed by section 554 of the Administrative Procedure Act. Additionally, the Rules of Practice establish procedures for appeals from decisions of the ALJs and presiding officers to the Environmental Appeals Board. The purpose of this action is to apply the Rules of Practice to include adjudicatory proceedings for the assessment of civil penalties by the EPA under its Act to Prevent Pollution from

Ships authority. This rule also revises the mailing and hand delivery address for the Environmental Appeals Board (EAB or Board) to reflect the Board's relocation.

B. The Act To Prevent Pollution From Ships (APPS)

The International Convention for the Prevention of Pollution from Ships (MARPOL) is the primary international treaty applicable to prevention of pollution of the marine environment by ships from operational or accidental causes. Annex VI to MARPOL addresses the prevention of air pollution from ships through the use of both engine-based and fuel-based standards. MARPOL is implemented in the United States through the Act to Prevent Pollution from Ships (APPS), 33 U.S.C. 1901–1915. The provisions of APPS implementing certain provisions of MARPOL Annex VI are jointly administered and enforced by the U.S. Coast Guard and the EPA. Under the authority of APPS, the EPA, in consultation with the U.S. Coast Guard, promulgated regulations codifying the requirements specified in Regulations 13, 14 and 18 of Annex VI and addressing issues, for example, relating to nonparty vessel compliance. See 40 CFR Part 1043. Section 1907(f) of APPS authorizes the EPA to enforce regulations 17 and 18 of Annex VI for cases involving shoreside violations, and for any other matters that have been referred to the EPA by the U.S. Coast Guard. In addition, section 1908(b) of APPS authorizes the U.S. Coast Guard or the EPA to assess civil penalties against persons who have been found, after notice and an opportunity for a hearing, to have violated MARPOL, APPS, or the implementing regulations. In order to provide consistency and uniformity in all of EPA's administrative penalty proceedings, this action would expand the scope of the EPA's Rules of Practice to also apply to any administrative proceedings brought by the EPA under its APPS authority for the assessment of civil penalties.

V. Statutory and Executive Order Reviews

A. Executive Orders 12866: Regulatory Planning and Review and 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action will apply the Rules of Practice to adjudicatory proceedings for the assessment of civil penalties by the EPA under its Act to Prevent Pollution from Ships authority, and will revise the mailing and hand delivery address for the EAB to reflect the Board's relocation.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule will not impose any additional requirements on small entities. This rule will apply the Rules of Practice to adjudicatory proceedings for the assessment of civil penalties by the EPA under its Act to Prevent Pollution from Ships authority, and will revise the mailing and hand delivery address for the EAB to reflect the Board's relocation.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action

is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The purpose of this action is to apply the Rules of Practice to adjudicatory proceedings for the assessment of civil penalties by the EPA under its Act to Prevent Pollution from Ships authority, and to revise the mailing and hand delivery address for the EAB to reflect the Board's relocation.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It 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. This action will apply the Rules of Practice to adjudicatory proceedings for the assessment of civil penalties by the EPA under its Act to Prevent Pollution from Ships authority, and will revise the mailing and hand delivery address for the EAB to reflect the Board's relocation. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action will apply the Rules of Practice to adjudicatory proceedings for the assessment of civil penalties by the EPA under its Act to Prevent Pollution from Ships authority, and will revise the mailing and hand delivery address for the EAB to reflect the Board's relocation. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action will apply the Rules of Practice to adjudicatory proceedings for the assessment of civil penalties by the EPA under its Act to Prevent Pollution from Ships authority, and will revise the mailing and hand delivery address for the EAB to reflect the Board's relocation.

K. Congressional Review Act

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. The 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). This rule will be effective 60 days after publication.

VI. Statutory Authority

Statutory authority for this action comes from 1903 and 1908 of the Act to Prevent Pollution from Ships (APPS) (33 U.S.C. 1901 *et seq.*).

List of Subjects in 40 CFR Part 22

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Water pollution control.

Dated: October 20, 2014.

Gina McCarthy,
Administrator.

For the reasons set out in the preamble, 40 CFR part 22 is amended as follows:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

■ 1. The authority citation for part 22 continues to read as follows:

Authority: 7 U.S.C. 136(l); 15 U.S.C. 2615; 33 U.S.C. 1319, 1342, 1361, 1415 and 1418; 42 U.S.C. 300g–3(g), 6912, 6925, 6928, 6991e and 6992d; 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547, 7601 and 7607(a), 9609, and 11045.

Subpart A—General

■ 2. Section 22.1 is amended by adding paragraph (a)(11) to read as follows:

§ 22.1 Scope of this part.

(a) * * *

(11) The assessment of any administrative civil penalty under

section 1908(b) of the Act To Prevent Pollution From Ships (“APPS”), as amended (33 U.S.C. 1908(b)).

* * * * *

■ 3. Section 22.3, paragraph (a), is amended by revising the definition for “Clerk of the Board” to read as follows:

§ 22.3 Definitions.

(a) * * *

Clerk of the Board means an individual duly authorized to serve as Clerk of the Environmental Appeals Board.

* * * * *

■ 4. Section 22.5, paragraph (a)(1), is amended by revising the third sentence to read as follows:

§ 22.5 Filing, service, and form of all filed documents; business confidentiality claims.

(a) *Filing of documents.* (1) * * * Documents filed in proceedings before the Environmental Appeals Board shall be sent to the Clerk of the Board either by U.S. Mail (except by U.S. Express Mail) to U.S. Environmental Protection Agency, Environmental Appeals Board, 1200 Pennsylvania Avenue NW., Mail Code 1103M, Washington, DC 20460–0001; or delivered by hand or courier (including deliveries by U.S. Express Mail or by a commercial delivery service) to U.S. Environmental Protection Agency, Environmental Appeals Board, 1201 Constitution Avenue NW., WJC East, Room 3332, Washington, DC 20004. * * *

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Subpart F—Appeals and Administrative Review

■ 5. Section 22.30, paragraph (a)(1), is amended by revising the first sentence to read as follows:

§ 22.30 Appeal from or review of initial decision.

(a) *Notice of appeal.* (1) Within 30 days after the initial decision is served, any party may appeal any adverse order or ruling of the Presiding Officer by filing an original and one copy of a notice of appeal and an accompanying appellate brief with the Environmental Appeals Board as set forth in § 22.5(a). * * *

* * * * *

[FR Doc. 2014–26321 Filed 11–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0169; FRL–9918–73–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County; Control of Outdoor Wood-Fired Boilers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania pertaining to the control of particulate matter (PM) emissions from the operation of outdoor wood-fired boilers (OWBs) in Allegheny County. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on December 8, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2014–0169. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) 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 through www.regulations.gov or in hard copy 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. Copies of the Commonwealth’s submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at schmitt.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 5, 2014, EPA published a notice of proposed rulemaking (NPR) proposing approval of a revision to the Allegheny County portion of the Pennsylvania SIP for the control of PM

from the operation of OWBs in Allegheny County. 79 FR 45395. The formal SIP revision was submitted on January 15, 2014 by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of Allegheny County. In the NPR, EPA proposed approval of the SIP revision because EPA’s review of the revision indicated that the regulations submitted would reduce problems associated with the operation of OWBs, including smoke and burning prohibited fuels, including garbage, tires, and hazardous waste. *Id.* at 45396.

II. Summary of SIP Revision

The SIP revision consists of: (1) adding Section 2104.09 (Outdoor Wood-Fired Boiler) to Article XXI, “Air Pollution Control Rules and Regulations”; and (2) adding new related definitions to Section 2101.20 (Definitions) of Article XXI. Section 2104.09 contains the requirements pertaining to the sale, manufacture, installation, and operation of OWBs in Allegheny County. The specific requirements pertaining to the regulation of OWBs in Allegheny County, as well as EPA’s rationale for approving these changes, are explained in the NPR and the accompanying Technical Support Document (TSD) and will not be restated here. These documents are contained in the electronic docket available online at www.regulations.gov, Docket number EPA–R03–OAR–2014–0169.¹

III. Public Comments

EPA received two sets of comments on the August 5, 2014 NPR proposing approval of Allegheny County’s January 15, 2014 SIP submission for control of OWBs in the County. A full set of comments is provided in the docket for this final rulemaking action. A summary of each comment and EPA’s response is provided in this section.

A. Clean Air Council Comments

Comment: Clean Air Council (CAC) urges EPA to disapprove the proposed SIP revision based on several factors and states that an outright ban on OWBs in Allegheny County is appropriate asserting, “greater action is necessary to sufficiently protect residents from harmful wood smoke” from OWBs. Specifically, CAC states that an outright ban of OWBs in Allegheny County is appropriate given the local terrain, proximity of neighbors, and magnitude of other emissions in the Allegheny County airshed.

¹ In the TSD, EPA stated that the SIP revision would reduce emissions of fine particulate matter (PM_{2.5}) from OWBs which would promote benefits such as improved visibility.