

protect spectators and participants from the hazards that accompany a high speed powerboat race in a confined area.

#### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that will be made to the affected maritime community, and the fact that the event is taking place in an area where the only commercial interests affected are a few marinas.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard has considered the environmental impacts of this special local regulation as well as the Whatever

Festival Hydroplanes race. An Environmental Assessment (EA) was prepared for the Whatever Festival Hydroplanes race for which a Coast Guard Marine Event Permit will be issued. A Finding of No Significant Impact (FONSI) was made; a copy of the EA and FONSI statement are available in the docket. Under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, promulgation of this special local regulation is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 100

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

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

#### **PART 100—[AMENDED]**

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

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A permanent section, § 100.109, is added to read as follows:

#### **§ 100.109 Whatever Festival Hydroplanes, Augusta, ME.**

(a) *Regulated Area.* This regulated area includes all waters within the following points and provides a 100 yard minimum safety zone around the race course:

Latitude	Longitude
44°19.01" N	069°46.22" W
44°19.00" N	069°46.18" W
44°18.37" N	069°46.26" W
44°18.36" N	069°46.16" W

(b) *Special Local Regulations.*

(1) Commander, U.S. Coast Guard Group Portland reserves the right to delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area during the effective period of regulation unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels desiring to transit the river may do so without Coast Guard approval as long as the vessel remains outside the regulated areas at specified times. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated areas with a Coast Guard designated escort in between race heats. No vessel will be allowed to transit through any portions of the regulated area during the actual race. Vessels encountering emergencies which require transit through the regulated

areas should contact the Coast Guard patrol commander on VHF Channel 16.

(4) Spectator craft are authorized to watch the race from any areas as long as they remain outside the designated regulated areas. There will be no movement of spectator craft during each heat of the race. Spectator craft area expected to remain outside the safety zone during race times unless permission has been granted by the patrol commander.

(5) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Group Portland or the designated on-scene patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately, then proceed as directed. Members of the Coast Guard Auxiliary also will be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This rule will be effective annually on the fourth weekend in June, at times to be prescribed in a Coast Guard Local Notice to Mariners and a notice in the Federal Register.

Dated: September 14, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander,  
First Coast Guard District.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 62**

[VA9-3-5469, VA9-8-5474; FRL-5262-7]

### **Approval and Promulgation of Air Quality Implementation Plans; Virginia (Approval of Miscellaneous Revisions); Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Virginia (Approval of Revision to the Section 111(d) Plan for Sulfuric Acid Mist)**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving both a State Implementation Plan (SIP) revision and a Section 111(d) plan revision submitted by the Commonwealth of Virginia. These revisions incorporate changes which were adopted by Virginia in 1985 as part of a reorganization of Virginia's air pollution control regulations, and

which still represent current state law as of September 28, 1995. The intended effect of this action is to revise these federally-approved air quality plans to reflect the current State requirements. These actions are being taken under sections 110 and 111(d) of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective on October 30, 1995.

**ADDRESSES:** Copies of the documents relevant to these actions are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 597-1325.

**SUPPLEMENTARY INFORMATION:** On October 19, 1987 (47 FR 38787), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of a revised format and numerous amendments, both administrative and substantive, submitted by the Commonwealth of Virginia to EPA Region III on February 14, 1985. EPA approved the revised format and rule citations on February 25, 1993 (58 FR 11374), and incorporated them by reference into the Virginia SIP at 40 CFR 52.2420(c)(89). In this same action, EPA stated that the substance of certain regulations pertaining to volatile organic compounds (VOC) and sulfuric acid mist would be acted upon in a separate notice. At this time, EPA is taking final action on the above-mentioned provisions. The revised provisions are summarized below:

#### 40 CFR Part 52

The revised VOC regulations submitted by Virginia on February 14, 1985 and not incorporated by reference at 40 CFR 52.2420(c)(89) consists of the following revisions:

1. Deletion of Virginia SIP Regulation 4.52 (Hydrocarbon Emissions), effective February 1, 1985. The provisions of this regulation were applicable only in Virginia Region 7, which for the purposes of this regulation consisted of the following municipalities: Arlington, Fairfax, Loudoun and Prince William Counties; Alexandria, Fairfax, and Falls Church Cities. The provisions of SIP

Regulation 4.52 no longer represent current State law, and have been replaced or superseded since 1985 in the Virginia SIP with the source-specific rules for VOC source categories found in the federally-enforceable version of Part IV.

2. Administrative amendments to Rule 4-41 (Motor Vehicles), Sections 120-04-4103A. and 4103B.

Public hearings were held on June 15, 1984 in Richmond, as required by 40 CFR 51.102. Additional public hearings were held in Abingdon, Roanoke, Lynchburg, Virginia Beach, and Springfield.

SIP Regulation 4.52, originally approved by EPA in 1974, is applicable only to VOC sources located in the Virginia portion of the National Capital AQCR, was the original regulation adopted by Virginia to control emissions from sources of photochemically reactive organic compounds located in Northern Virginia. This regulation was approved by EPA prior to EPA's issuing of Round I, Round II and Round III Control Techniques Guideline (CTG) regulations. (See 40 CFR 52.2420(c)(19), (c)(24)). Virginia has further revised its VOC regulations in response to the requirements of the 1990 Clean Air Act amendments.

Since SIP Regulation 4.52 ceased to be State law effective February 1, 1985, and since Virginia's current VOC regulations are far more comprehensive than the provisions of SIP Regulation 4.52, EPA sees no need to retain this provision as part of the federally-enforceable SIP.

The provisions of Sections 120-04-4103A (which prohibits the tampering of motor vehicle emission control systems) and 120-04-103B (which specifies allowable visible emissions) as revised, effective February 1, 1985, remain current State law as of the date of this document. EPA has determined that these revisions are administrative in nature, and serve to enhance the enforceability of this regulation. No public comments were received on the October 19, 1987 NPR.

#### Final Action

EPA is approving both the revised provisions of Section 120-04-4103 and the deletion of Section 4.52 as a revision to the Virginia SIP. The revised Virginia regulations will be incorporated by reference into the Virginia SIP, and codified at 40 CFR 52.2420(c)(104).

The Agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those

requirements irrespective of the fact that the submittal preceded the date of enactment.

#### 40 CFR Part 62

The reorganization of Virginia's air quality regulations also affects Virginia's Section 111(d) plan for sulfuric acid mist, as Rule 4-21 (Sulfuric Acid Plants) of the 1985 regulations replaces Regulation 4.51(c) of the pre-1985 format.

Virginia currently has an approved section 111(d) Plan for sulfuric acid mist. (See 40 CFR 62.11601). In its initial approval of the Section 111(d) plan for sulfuric acid mist (November 13, 1981, 46 FR 55972), EPA announced that all applicable provisions of the federally-enforceable Virginia SIP would also apply to control of sulfuric acid mist sources. The applicable SIP regulations, which are codified at § 52.2420(c)(89), are described in the technical support document (TSD) accompanying this action.

However, the February 14, 1985 version of Section 120-04-2104 (formerly Section 4.51(c)(2)) was not IBR'ed into the SIP, since it exclusively governs sulfuric acid mist, a noncriteria welfare pollutant controlled under section 111(d) of the Clean Air Act, and not section 110 of the Act. As such, revisions to Section 120-04-2104 would be codified in 40 CFR part 62 rather than 40 CFR part 52. This regulation is revised to conform with the revision of the term "sulfuric acid plant", which Virginia revised to "sulfuric acid production unit."

Public hearings were held on June 15, 1984 in Richmond, as required by 40 CFR Section 60.23. Additional public hearings were held in Abingdon, Roanoke, Lynchburg, Virginia Beach, and Springfield.

#### EPA Evaluation

The revised definition of "sulfuric acid production unit" found in Section 120-04-2104 conforms to Virginia's definitions format found throughout its air pollution control regulations. In combination with the remainder of the Rule 4-21 provisions incorporated by reference into the Virginia SIP at § 52.2420(c)(89), EPA concludes that all provisions in Rule 4-21 submitted as of February 14, 1985 which apply to sulfuric acid mist are federally enforceable.

The actions taken at § 52.2420(c)(89) allows EPA to revise other provisions under subpart VV of 40 CFR part 62. In its original approval action of November 13, 1981, sections 62.11601(c) and 62.11602(a) were added to indicate that no action on the applicability of the

monitoring provisions (Virginia regulation 120-04-04), the Notification, Records and Reporting provisions (120-04-05), and Appendix J (Emission Monitoring Provisions For existing Sources) would be taken on Virginia's Section 111(d) plan for sulfuric acid mist in part 62 until EPA incorporated these Commonwealth provisions in part 52. In this action, EPA is revising subpart VV of part 62 to reflect the action taken at § 52.2420(c)(89) to incorporate by reference the current provisions of Virginia regulations 120-04-04 and 120-04-05.

During the 30-day public comment period following the October 19, 1987 proposed rulemaking notice, no comments were received.

#### Final Action

EPA is approving the revised provisions of Rule 4-21, Section 120-04-2104 as a revision to Virginia's Section 111(d) plan for sulfuric acid mist. Therefore, the revised State regulations will be codified at 40 CFR 62.11601(g). At the same time, EPA is removing 40 CFR 62.11601(c) and 62.11602(a) to reflect the current status of the federally-enforceable Virginia SIP.

The Agency has reviewed this request for revision of the Federally-approved Section 111(d) plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in these actions should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any

small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of these actions pertaining to approval of revisions of Virginia's air pollution control regulations for mobile sources and sulfuric acid mist, as well as the deletion of the pre-1985 hydrocarbon emissions regulations, must be filed in the United States Court of Appeals for the appropriate circuit by November 27, 1995. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of these rules 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. These actions may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

##### 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements, Sulfuric acid plants.

Dated: July 7, 1995.  
Stanley L. Laskowski,  
*Acting Regional Administrator, Region III.*

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

#### Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(104) to read as follows:

##### § 52.2420 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(104) Revisions to the Virginia Regulations for the Control and Abatement of Air Pollution submitted on February 14, 1985 by the Virginia Department of Air Pollution Control:

(i) Incorporation by reference.

(A) Letter of February 14, 1985 from the Virginia Department of Air Pollution Control transmitting a revision to the Virginia State Implementation Plan.

(B) The following provisions of the Virginia regulations, effective February 1, 1985:

(1) Revisions to Part IV, Rule 4-41 (Mobile Sources), Sections 120-04-4103A. and 120-04-4103B.

(2) Deletion of SIP Regulation 4.52.

(ii) Additional material.

(A) Remainder of February 14, 1985 State submittal pertaining to the revised provisions of Section 120-04-4103 and the deletion of SIP regulation 4.52.

\* \* \* \* \*

#### PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7413 and 7601.

#### Subpart VV—Virginia

1. Section 62.11601 is amended by removing and reserving paragraph (c) and by adding paragraph (g) to read as follows:

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

##### § 62.11601 Identification of plan.

\* \* \* \* \*

(g) Section 4.51(c)(2) is replaced with Rule 4-21 (Emission Standards from Sulfuric Acid Production Units), section 120-04-2104 (Standard for Sulfuric Acid Mist), effective February 1, 1985. This revision was submitted on February 14, 1985 by the Commonwealth of Virginia.

##### § 62.11602 [Removed]

2. Section 62.11602 is removed.

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