

QUARTERLY REPORT

COTP docket	Location	Type	Effective date
Charleston 96-058	Cooper River, SC	Safety Zone	9/22/96
Corpus Christi 96-010	Gulf Intracoastal Waterway	Safety Zone	9/4/96
Corpus Christi 96-011	Gulf Intracoastal Waterway	Safety Zone	11/12/96
Corpus Christi 96-013	Corpus Christi Chip Channel	Safety Zone	12/23/96
Houston/Galveston 96-003	Galveston, TX	Security Zone	10/31/96
Houston/Galveston 96-004	Freeport, TX	Safety Zone	11/7/96
Houston/Galveston 96-011	Houston, TX	Safety Zone	9/6/96
Houston/Galveston 96-012	Houston, TX	Safety Zone	9/10/96
Houston/Galveston 96-014	Houston, TX	Safety Zone	10/23/96
Huntington 96-001	Ohio River, M. 322.5 to M. 322.8	Security Zone	8/25/96
LA/Long Beach 96-019	San Pedro Bay, CA	Safety Zone	8/20/96
LA/Long Beach 96-021	San Pedro Bay, CA	Safety Zone	8/30/96
LA/Long Beach 96-022	San Pedro Bay, CA	Safety Zone	9/7/96
LA/Long Beach 96-024	San Pedro Bay, CA	Safety Zone	10/17/96
LA/Long Beach 96-025	Santa Barbara, CA	Security Zone	11/1/96
Memphis 96-001	Mississippi River, M. 722.3 to M. 725.5	Safety Zone	8/28/96
Miami 96-066	Biscayne National Park, FL	Safety Zone	11/7/96
Miami 96-070	Biscayne National Park, FL	Safety Zone	11/20/96
Miami 96-071	Biscayne National Park, FL	Safety Zone	11/21/96
Mobile 96-021	Gulf of Mexico, FL	Safety Zone	8/8/96
Mobile 96-022	Gulf of Mexico, FL	Safety Zone	8/8/96
Mobile 96-024	Gulf of Mexico, MS	Safety Zone	9/19/96
Mobile 96-026	Gulf of Mexico, FL	Safety Zone	11/10/96
Mobile 96-028	Fulton, MS	Safety Zone	12/14/96
Morgan City 96-003	Vermillion River, LA	Safety Zone	11/1/96
New Orleans 96-009	Mississippi River, M. 94 to M. 95	Safety Zone	9/26/96
New Orleans 96-010	Mississippi River, M. 94 to M. 95	Safety Zone	9/27/96
New Orleans 96-011	Industrial Canal	Security Zone	11/6/96
New Orleans 96-012	Crescent City Connection Bridge	Security Zone	10/24/96
New Orleans 96-013	Canal Bridge	Security Zone	10/24/96
New Orleans 96-014	Bienville Street Wharf	Security Zone	11/2/96
New Orleans 96-015	Mississippi River, M. 94 to M. 95	Safety Zone	11/2/96
New Orleans 96-017	Mississippi River, M. 94 to M. 95	Safety Zone	12/31/96
Paducah 96-001	Tennessee River, M. 2.5 to M. 5.5	Security Zone	10/11/96
San Diego Bay 96-008	San Diego Bay, CA	Safety Zone	8/24/96
San Diego Bay 96-010	San Clemente Island, CA	Safety Zone	11/14/96
San Francisco Bay 96-004	San Francisco Bay, CA	Safety Zone	7/4/96
San Francisco Bay 96-005	San Francisco Bay, CA	Safety Zone	10/12/96
San Francisco Bay 96-006	San Francisco Bay, CA	Safety Zone	10/10/96
San Francisco Bay 96-007	San Francisco Bay, CA	Safety Zone	10/12/96
San Francisco Bay 96-079	San Francisco Bay, CA	Security Zone	10/31/96
Savannah 96-073	Savannah, GA	Safety Zone	12/5/96
Southeast Alaska 96-001	Tongass Narrows, Ketchikan	Security Zone	11/5/96
Tampa 96-061	Tampa Bay, FL	Safety Zone	10/7/96
Western Alaska 96-001	UnAlaska Island, AK	Safety Zone	10/18/96

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD040-3010a and MD048-3011a; FRL-5688-5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions From Open Fires, "Once-in, Always-in," and Definition for the Term "Annual"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland on July 12, 1995 and July 17, 1995. These revisions establish a definition for the term "annual," expand Maryland's once-in, always-in provisions, and require an open burning ban in Maryland's serious and severe ozone nonattainment areas during the summer months. The intended effect of this action is to approve these provisions into the Maryland SIP, in accordance with the SIP submittal and revision provisions of the Act.

DATES: This final rule is effective April 28, 1997 unless within March 27, 1997, adverse or critical comments are received. If the effective date is delayed,

timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action 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 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 566-2181, at the

EPA Region III office address listed above, or via e-mail at pino.maria@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On July 12, 1995, the Maryland Department of the Environment (MDE) submitted amendments to its open fires regulation to EPA as a State Implementation Plan (SIP) revision. This regulation controls emissions of volatile organic compounds (VOCs) through a seasonal ban on open burning in Maryland's serious and severe ozone nonattainment areas. MDE submitted this SIP revision request pursuant to the rate-of-progress (ROP) requirements of section 182 of the Clean Air Act (the Act).

On July 17, 1995, MDE submitted amendments to its "once-in, always-in" provisions to EPA as a SIP revision. These revisions expand the applicability of Maryland's once-in, always-in provisions to include VOC regulations triggered by applicability thresholds based on a source's actual emissions. Also on July 17, 1995, MDE submitted a definition for the term "annual." This revision clarifies applicability provisions for many Maryland VOC emission control requirement provisions.

Summary of SIP Revision

State Submittal: Open Fires, COMAR 26.11.07

Maryland has amended COMAR 26.11.07 to institute a ban on open burning during the peak ozone season in Maryland's severe and serious ozone nonattainment areas. Maryland considers the months of June, July, and August the peak ozone, because that is when ambient levels of ozone in Maryland are usually the highest. The areas subject to this ban are the Baltimore severe ozone nonattainment area (Baltimore City and Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties), the Maryland portion of the Philadelphia severe ozone nonattainment area (Cecil County), and the Maryland portion of the Washington, DC serious ozone nonattainment area (Calvert, Charles, Frederick, Montgomery, and Prince George's Counties). These revisions were adopted on May 1, 1995, and effective on May 22, 1995.

The following open fires are not prohibited, as long as all reasonable means are used to minimize smoke:

- (1) For cooking of food on noncommercial property (cook outs);
- (2) For recreational purposes (camp fires);

(3) For prevention of fire hazards that cannot be abated by any other means;

(4) For the instruction of fire fighters or the testing of fire fighter training systems fueled by propane or natural gas;

(5) For protection of health & safety when disposal of hazardous waste is not possible by any other means;

(6) For burning pest infested crops or agricultural burning for animal disease control;

(7) For good forest resource management practices;

(8) For the burning of excessive lodging for the purpose of re-cropping; and

(9) For testing fire fighting training systems.

This ban is in effect during the "peak ozone season". During the remainder of the year (September 1–May 31) Maryland's existing open fire regulations apply. Current regulations require a permit to be obtained before open burning can take place.

The program will be enforced through a coordinated effort between Maryland Department of the Environment, local agencies and public officials. There will also be a coordinated public awareness effort to educate the public about the alternatives to open burning. The ban will result in emission reductions of 13.28 tons per day (tpd) VOC. The ban will also result in significant emission reductions of carbon monoxide (CO), oxides of nitrogen (NO_x), and toxics (carcinogenic polycyclic materials).

In addition, Maryland has made the following administrative amendments to COMAR 26.11.07.

(1) All references to Ringlemann Smoke Chart have been replaced by references to opacity throughout this regulation.

(2) All references to "Areas I–VI" have been replaced by county names throughout this regulation.

(3) All references to "I.I.A waste type 0 and 1" have been placed with references to all "ordinary household trash" throughout this regulation.

EPA Evaluation: Open Fires, COMAR 26.11.07

These revisions, which prohibit all but certain specific open burning activities in Maryland's serious and severe ozone nonattainment areas in the peak ozone season (June, July & August), will result in significant enforceable VOC emission reductions. These reductions are needed for Maryland's 15% plans.

State Submittal: Once-in, Always in, COMAR 26.11.19.02A(3)–(5)

These SIP revisions add a once-in, always-in provision for VOC regulations

triggered by applicability thresholds based on a source's actual emissions (as opposed to potential emissions). These revisions were adopted on April 7, 1995, and effective on May 8, 1995, and are applicable statewide.

The once-in, always-in provision that is currently in Maryland's SIP states that if a source is subject to the requirements of COMAR 26.11.19 (Maryland's category specific VOC regulations) because its potential emissions exceed an applicability threshold, the source will continue to be subject to the requirements, regardless of whether future emissions are below the applicability threshold. Maryland has expanded this provision to include exceedances of actual emissions thresholds. Actual emissions since January 1, 1990 will be considered in determining applicability.

EPA Evaluation: Once-in, Always in, COMAR 26.11.19.02A(3)–(5)

This revision will ensure that any new VOC requirements that have applicability thresholds based on actual emissions are enforceable for all sources that have exceeded the applicability threshold from January 1, 1990 into the future.

State Submittal: Definition of "Annual", COMAR 26.11.19.01B(1–1)

This SIP revision adds a definition for the term "annual." This revision was adopted on April 7, 1995, and effective on May 8, 1995, and is applicable statewide.

Maryland has added a definition for the term "annual." COMAR 26.11.19.01B(1–1) defines the term "annual" as meaning a calendar year, unless otherwise specified.

EPA Evaluation: Definition of the Term "Annual", COMAR 26.11.19.01B

Many of Maryland's new VOC control measures, both Reasonably Available Control Technology (RACT) regulations and other VOC control measures needed for Maryland's 15% plans and other ROP requirements, use the term "annual" in provisions for determining a facilities applicability. This revision will clarify any applicability provisions in COMAR 26.11.19 that use the term annual.

EPA is approving these SIP revisions without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 28, 1997

unless, by March 27, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 28, 1997.

Final Action

EPA is approving amendments to COMAR 26.11.07 as revisions to Maryland's ozone SIP. These revisions, which institute a ban on open burning during the peak ozone season in Maryland's severe and serious ozone nonattainment areas, were submitted by Maryland on July 12, 1995. EPA is also approving amendments to COMAR 26.11.19.02A(3)-(5) and COMAR 26.11.19.01B(1-1) as revisions to Maryland's ozone SIP. These revisions, which add a definition for the term "annual" and add a "once-in, always-in" provision for VOC regulations triggered by applicability thresholds based on a source's actual emissions, were submitted by Maryland on July 17, 1995.

Nothing in this action 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.

Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare

a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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 rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to 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 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to revisions to COMAR 26.11.07, COMAR 26.11.19.02A(3)-(5), and COMAR 26.11.19.01B(1-1) of Maryland's ozone SIP, must be filed in the United States Court of Appeals for the appropriate circuit by April 28, 1997. Filing a petition for reconsideration by the Regional 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 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: January 31, 1997.

W. Michael McCabe,
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. 7401-7671q.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c) (120) and (121) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(120) Revisions to the Maryland State Implementation Plan submitted on July 12, 1995 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of July 12, 1995 from the Maryland Department of the Environment transmitting additions, deletions, and revisions to Maryland's State Implementation Plan, pertaining to volatile organic compound regulations in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR) 26.11.

(B) The following amendments to COMAR 26.11.07, pertaining to open fires, adopted by the Secretary of the Environment on May 1, 1995, effective May 22, 1995:

(1) the deletion of sections 26.11.07.01 A and B, definitions for the terms "hazardous material" and "I.I.A. standards."

(2) addition of new section 26.11.07.01B, "Terms Defined."

(3) addition of new sections 26.11.07.01B(1) and (2), definitions of the terms "excessive lodging" and "forest resource management practices."

(4) renumbering of old sections 26.11.07.01C & D, now new sections 26.11.07.01B(3) & (4).

(5) amendments to section 26.11.07.02, pertaining to general provisions.

(6) amendments to sections 26.11.07.03A, B, and B(1), pertaining to open fires authorized by control officers.

(7) addition of new section 26.11.07.03C, "Prohibition on Open Burning."

(8) amendments to section 26.11.07.04, pertaining to open fires authorized by public officers, including the addition of new sections (4)–(7).

(9) amendments to section 26.11.07.05, pertaining to open fires allowed without authorization.

(ii) Additional material.

(A) Remainder of July 12, 1995 Maryland State submittal pertaining to COMAR 26.11.19.07.

(121) Revisions to the Maryland State Implementation Plan submitted on July 17, 1995 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of July 12, 1995 from the Maryland Department of the Environment transmitting additions, deletions, and revisions to Maryland's State Implementation Plan, pertaining to volatile organic compound regulations in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR) 26.11.

(B) Amendments to COMAR 26.11.19.02A, pertaining to once-in, always-in applicability provisions, consisting of revisions to COMAR 26.11.19.02A(3), and the addition of new COMAR 26.11.19.02A (4) and (5), adopted by the Secretary of the

Environment on April 7, 1995, and effective on May 8, 1995.

(C) Amendments to COMAR 26.11.19.01B, consisting of the addition of new COMAR 26.11.19.01B(1–1), the definition for the term "annual," adopted by the Secretary of the Environment on April 7, 1995, effective on May 8, 1995.

(ii) Additional material.

(A) Remainder of July 17, 1995 Maryland State submittal pertaining to COMAR 26.11.19.02A(3)–(5) and COMAR 26.11.19.01B(1–1).

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40 CFR Part 52

[OH102–1a; FRL–5675–5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Ohio on August 30, 1996, which provides Ford Motor Company an extended exemption from opacity limitations for start-up of coal-fired boilers at its Cleveland Engine Plant 1. This revision extends the exemption for these boilers from 3 hours to 6 hours after start-up.

DATES: The "direct final" approval is effective on April 28, 1997 unless adverse or critical comments are received by March 27, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone John Summerhays at (312) 886–6067 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays at (312) 886–6067.

SUPPLEMENTARY INFORMATION:

I. Background

In the first version of Ohio particulate matter regulations approved by USEPA, i.e., Ohio's 1972 SIP submittal, Ohio's regulations imposed a limitation on opacity without any exemptions for special circumstances. However, as experience was gained enforcing this limitation, the State identified a number of circumstances in which compliance with the limitation could be considered an unreasonable requirement. One type of such circumstances is the start-up of a boiler, before stable combustion conditions have been achieved. In rule revisions adopted in the early 1980s, the State exempted sources from the opacity limitation for a period of six hours after start-up of a boiler. USEPA accepted the principle of exempting boilers from the opacity limitation for a period necessary to achieve stable combustion, but objected to provision of an automatic six hour exemption. USEPA recommended instead that Ohio provide a three hour exemption, with provision that Ohio could request longer exemptions for specific sources on a case-by-case basis.

Pursuant to USEPA's recommendation, Ohio in 1991 modified its rule on opacity, Rule 3745–17–07, in accordance with USEPA's recommendations. Paragraph (A)(3)(b)(i) states that:

the visible particulate emission limitations established in paragraph (A)(1) of this rule shall not apply to * * * the start-up of * * * any fuel burning equipment which are uncontrolled or which are equipped solely with mechanical collectors * * * , for a period of not more than three hours from the moment of start-up, provided that the director may incorporate a longer start-up time period in the permit * * * for such source for which an applicant demonstrates to the satisfaction of the director that the longer time period is required.

Paragraph (D) of this rule then states that:

Any revision approved by the director in accordance with paragraph (A)(3)(a)(ii) [et al.] shall not revise the federally enforceable requirements of the state implementation plan until approved by the U.S. environmental protection agency.

USEPA approved Rule 3745–17–07, including the above language, on May 27, 1994, at 59 FR 27464.

II. Review of State Submittal

In this submittal, Ohio requests that the start-up exemption from opacity limitations be extended from three hours to six hours for coal-fired boilers at Ford's Cleveland Engine Plant 1, pursuant to Paragraphs (A)(3)(a)(ii) and (D) of its Rule 3745–17–07. The