

(j) * * * However, the consumer confidence rule reporting requirements relating to arsenic listed in § 141.154(b) and (f) are effective for the purpose of compliance on May 22, 2001.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT064-7222A; A-1-FRL-6942-6]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Approval of Several NO_x Emission Trading Orders as Single Source SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes a mechanism to create and use emission trading credits for nitrogen oxides (NO_x) at electric generating facilities currently owned by Wisvest in Bridgeport and New Haven, Connecticut. This revision also approves retrospectively credits created at these facilities between April 16, 2000 and April 30, 2000. These credits can be used by facilities to comply with the NO_x emission limits required by Connecticut regulation 22a-174-22 (Control of Nitrogen Oxides). The revision also approves annual emission credits at Wisvest's power plant Bridgeport Harbor Station (unit no. 2). These annual credits can be used by facilities to offset any NO_x emission increases due to new construction or plant modification subject to EPA's nonattainment new source review program. Lastly, this revision changes the expiration date from December 1999 to December 2000 of previously issued Orders to four municipal waste incinerators. The intended effect of this action is this SIP revision in accordance with the Clean Air Act.

DATES: This direct final rule is effective on May 22, 2001 without further notice, unless EPA receives adverse comment by April 23, 2001. If adverse comment is received, EPA 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: Comments may be mailed to Donald Dahl, Air Permit Program Unit, Office of Ecosystem Protection (mail

code CAP) U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918-1657.

SUPPLEMENTARY INFORMATION:

EPA's Action

- A. What action is EPA taking today?
- B. When did Connecticut submit this SIP revision request?
- C. What does this revision accomplish?
- D. What will be the effects of this SIP revision?
- E. Why is EPA publishing this rule without prior proposal?
- F. What if EPA receives public comment?

A. What Action Is EPA Taking Today?

Today, EPA is approving nine Emission Trading Agreement and Orders that will allow facilities in Connecticut to generate and or use emission credits for compliance with the NO_x emission limits that were established as part of Connecticut's strategy to lower ozone levels.

B. When Did Connecticut Submit This SIP Revision Request?

On May 19, 2000, Connecticut submitted to EPA a formal request to revise its State Implementation Plan (SIP).

C. What Does This Revision Accomplish?

The SIP revision consists of approving Trading Agreement and Order Nos. 8094 (Ogden Martin's facility in Bristol); 8095 (American Ref-Fuel Company of Southeastern Connecticut in Preston); 8100 (Bridgeport Resco Company in Bridgeport); 8116 (Connecticut Resources Recovery Authority in Hartford); 8176 (Wisvest's New Haven Station Unit No. 1 in New Haven); 8177 (Wisvest's Bridgeport Harbor Unit No. 3 in Bridgeport); 8178 (Wisvest's New Haven Harbor auxiliary boiler in New Haven); 8179 (Wisvest's Bridgeport Harbor Unit No. 4); and 8187 (Wisvest's Bridgeport Harbor Unit No. 2) into Connecticut's SIP.

D. What Will Be the Effects of This SIP Revision?

The Trading and Agreement Orders listed above can be grouped into four categories. First, Order Nos. 8094, 8095, 8100, and 8116 change the dates the subject facilities are allowed to generate NO_x emission credits from December 14, 1999 to December 19, 2000.

Second, Order Nos. 8178 and 8179 contain the procedure that the subject sources must follow in order to determine if the facility's need to obtain NO_x emission credits in order to comply with NO_x RACT. These Orders allow each facility to obtain credits, as necessary, until May 1, 2003.

Third, Order Nos. 8176 and 8177 contain the procedure to generate future credits and also contain previously quantified emission reduction credits. Order No. 8176 grants 15 tons of non-ozone season NO_x credits to Wisvest's New Haven Harbor facility. Order No. 8177 grants 42 tons of non-ozone season NO_x credits to Wisvest's Bridgeport Harbor facility.

Lastly, Order No. 8187 creates 816 tons of NO_x credits annually at Wisvest's Bridgeport Harbor facility Unit No. 2. Since these credits represent a permanent reduction in actual NO_x emission from Bridgeport Harbor that are not required by the Clean Air Act, the credits can be used as offsets in the nonattainment new source review program. Offsets are used by new or modified facilities in ozone nonattainment areas where the construction results in an increase of NO_x emissions into the air.

E. Why Is EPA Publishing This Rule Without Prior Proposal?

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this *Federal Register* publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective May 22, 2001 without further notice unless the Agency receives adverse comments by April 23, 2001.

F. What if EPA Receives Public Comments?

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the

proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 22, 2001 and no further action will be taken on the proposed rule.

Final Action: EPA is approving the SIP revision submitted by Connecticut on May 19, 2000 as a revision to the SIP.

Administrative 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. 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 (Pub. L. 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 (64 FR 43255, August 10, 1999), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the 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 May 22, 2001. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: January 8, 2001.

Mindy S. Lubber,

Regional Administrator, EPA-New England.

Part 52 of 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 *et seq.*

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(88) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(88) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on May 19, 2000.

(i) Incorporation by reference.

(A) Connecticut Trading Agreement and Order No. 8177 issued to Wisvest Bridgeport Harbor's Unit No. 3 in Bridgeport on May 31, 2000.

(B) Connecticut Trading Agreement and Order No. 8187 issued to Wisvest Bridgeport Harbor's Unit No. 2 on January 12, 2000.

(C) Connecticut Trading Agreement and Order No. 8094, Modification No. 2, issued to Ogden Martin Systems of Bristol, Inc. on May 22, 2000.

(D) Connecticut Trading Agreement and Order No. 8095, Modification No. 2, issued to American Ref-Fuel Company of Southeastern Connecticut in Preston on May 22, 2000.

(E) Connecticut Trading Agreement and Order No. 8100, Modification No. 2, issued to Bridgeport Resco Company, Limited Partnership in Bridgeport on May 22, 2000.

(F) Connecticut Trading Agreement and Order No. 8116, Modification No. 2, issued to the Connecticut Resources Recovery Authority in Hartford on May 22, 2000.

(G) Connecticut Trading Agreement and Order No. 8178 issued to Wisvest's New Haven Harbor's auxiliary boiler in New Haven on May 22, 2000.

(H) Connecticut Trading Agreement and Order No. 8179 issued to Wisvest's Bridgeport Harbor's Unit No. 4 on May 22, 2000.

(I) Connecticut Trading Agreement and Order No. 8176, issued to Wisvest's New Haven Harbor Station's Unit No. 1 in New Haven on May 31, 2000.

(ii) Additional materials.

(A) Letter from the Connecticut Department of Environmental Protection dated May 19, 2000, submitting a

revision to the Connecticut State Implementation Plan.

(B) SIP narrative materials, dated December 1999, submitted with Connecticut Trading Agreement and Order Nos. 8176, 8177, 8178, 8179, and 8187.

3. In § 52.385, Table 52.385 is amended by adding entries in state citations following the existing entries for section 22a-174-22 to read as follows:

§ 52.385—EPA-approved Connecticut regulations.

* * * * *

TABLE 52.385.—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
22a-174-22	Control of NO _x nitrogen oxide emissions.	1/12/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest Bridgeport Harbor Station's Unit No. 2 in Bridgeport.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific trading order for Ogden Martin System's facility in Bristol.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific trading order for Connecticut Resources Recovery Authority.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific order for American Ref-Fuel Company.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Amendment to case-specific trading order for Bridgeport Resco Company.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest Bridgeport Harbor Station's Unit No. 4 in Bridgeport.
		5/22/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest New Haven Harbor Station's auxiliary Boiler in New Haven.
		5/31/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest Bridgeport Harbor Station's Unit No. 3 in Bridgeport.
		5/31/00	March 23, 2001	[Insert FR citation from published date].	(c)(88)	Case-specific trading order for Wisvest New Haven Harbor Station's Unit No. 1 in New Haven.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 112-1112a; FRL-6956-9]

Approval and Promulgation of Implementation Plans and Part 70 Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving revisions to the Missouri State Implementation Plan (SIP) and part 70 Operating Permits Program. EPA is approving revisions to Missouri's Definitions and Common Reference Tables rule and Operating Permits rule. These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally approved rules, and ensure Federal enforceability of the state's air program rule revisions pursuant to both section 110 and part 70.

DATES: This direct final rule will be effective May 22, 2001 unless EPA receives adverse comments by April 23,

2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information