

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[CGD01-06-078]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Jones Beach, NY**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Loop Parkway Bridge, across Long Creek at mile 0.7, at Jones Beach, New York. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the bridge to open on signal for all marine traffic, Monday through Friday twice an hour at twenty and fifty minutes after the hour, from 6:20 a.m. to 7:20 p.m., except that, between 9:50 a.m. and 3:20 p.m., the bridge shall open on signal for all commercial vessels. On Saturday, Sunday, and Federal Holidays, the bridge shall open on signal once an hour, at twenty minutes after the hour, between 7:20 a.m. and 8:20 p.m., except that, the bridge shall open on signal for all commercial vessels. At all other times the bridge shall open on signal for all vessel traffic.

DATES: This deviation is effective from June 30, 2006 through September 4, 2006. Comments must reach the Coast Guard on or before November 3, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpc), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The First Coast Guard District, Bridge Branch, maintains the public docket for this deviation. Comments and material received from the public, as well as documents indicated in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in evaluating this test schedule by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this deviation (CGD01-06-078), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Comments must be received by November 3, 2006.

Background and Purpose

The Loop Parkway Bridge has a vertical clearance in the closed position of 21 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(f).

The bridge owner, New York State Department of Transportation, requested a temporary deviation from the drawbridge operation regulations to test an alternate drawbridge operation schedule to help better balance the needs between vehicular land traffic and marine vessel traffic.

Under this temporary deviation, in effect from June 30, 2006 through September 4, 2006, the Loop Parkway Bridge at mile 0.7, across Long Creek, shall operate as follows:

The bridge shall open on signal for all marine traffic, Monday through Friday twice an hour, at twenty and fifty minutes after the hour, from 6:20 a.m. to 7:20 p.m., except that, between 9:50 a.m. and 3:20 p.m., the bridge shall open on signal for all commercial vessels. On Saturday, Sunday, and Federal Holidays, the bridge shall open on signal once an hour, at twenty minutes after the hour, between 7:20 a.m. and 8:20 p.m., except that, the bridge shall open on signal for all commercial vessels. At all other times the bridge shall open on signal for all vessel traffic.

This deviation from the operating regulations is authorized under 33 CFR 117.43.

Dated: June 26, 2006.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E6-10758 Filed 7-10-06; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R04-OAR-2004-KY-0004-200610; FRL-8191-5]

Approval and Promulgation of Implementation Plans; Kentucky Prevention of Significant Deterioration and Nonattainment New Source Review**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky on September 2, 2004, and amended by request dated August 23, 2005. The SIP revisions modify Kentucky's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) regulations in the SIP to address changes to the federal new source review (NSR) regulations, which were promulgated by EPA on December 31, 2002 (67 FR 80186) and November 7, 2003 (68 FR 63021) (commonly referred to as the "2002 NSR reform rules"). The September 2004 SIP revisions being approved today also include a rule setting a significance level of 100 tons per year (tpy) for ozone depleting substances.

EFFECTIVE DATE: This rule will be effective August 10, 2006.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2004-KY-0004. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional

Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Kentucky State Implementation Plan, contact Mr. Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Telephone number: (404) 562-9043; e-mail address: lakeman.sean@epa.gov. For information regarding New Source Review, contact Ms. Kelly Fortin, Air Permits Section, at the same address above. Telephone number: (404) 562-9117; e-mail address: fortin.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking?

EPA is taking final action to approve revisions to the Kentucky SIP regarding Kentucky's new source review (NSR) program. On September 2, 2004, the Commonwealth of Kentucky, through the Kentucky Department of Environmental Protection (KDEP), submitted revisions to the Kentucky SIP. The submittal was amended by KDEP in a letter dated August 23, 2005. The submittal consists of changes to three regulations that are already part of the Kentucky SIP. The affected regulations are: 401 Kentucky Administrative Regulations (KAR) 51:001, "Definitions for 401 KAR Chapter 51"; 401 KAR 51:017, "Prevention of Significant Deterioration of Air Quality"; and 401 KAR 51:052, "Review of New Sources in or Impacting upon Nonattainment Areas." The revisions were made to update the Kentucky NSR programs to make them consistent with changes to the federal NSR regulations published December 31, 2002 (67 FR 80186) and November 7, 2003 (68 FR 63021). The revisions also include a new rule setting a significance level for ozone depleting substances.

In a letter to EPA dated August 23, 2005, Kentucky requested to amend the September 2, 2004, SIP submittal in light of the decision issued by the U.S. Circuit Court of Appeals for the District of Columbia (D.C. Circuit Court) on June 24, 2005. In the amendment, Kentucky requested that the sections of the Kentucky rules corresponding to the EPA rules that were vacated by the D.C.

Circuit Court not be approved into the SIP, namely Sections 20, 21, and 22 of 401 KAR 51:017, Sections 11, 12, and 13 of 401 KAR 51:052, and definitions (38) "Clean Unit" and (188) "Pollution Control Project" in Section 1 of 401 KAR 51:001.

On February 10, 2006 (71 FR 6988), EPA published a notice of proposed rulemaking (NPR) in the **Federal Register**, proposing to approve the SIP revisions including Kentucky's NSR rules. The February 10, 2006, NPR provides additional information about the proposed Kentucky SIP revisions and the rationale for today's final action. The public comment period for the proposed action ended on March 13, 2006. No comments, adverse or otherwise, were received on EPA's proposed action. EPA is now taking final action to approve the SIP revisions submitted by KDEP on September 2, 2004, and amended on August 23, 2005.

II. What Is the Background for This Action?

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the Clean Air Act's PSD and Nonattainment New Source Review (NNSR) programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on its reconsideration of the 2002 rules. The purpose of today's action is to approve the SIP submittal from the Commonwealth of Kentucky, which includes EPA's 2002 NSR reform rules.

After the 2002 NSR reform rules were finalized and effective (March 3, 2003), various petitioners challenged numerous aspects of the 2002 NSR reform rules, along with portions of EPA's 1980 NSR rules (45 FR 52676, August 7, 1980). On June 24, 2005, the D.C. Circuit Court issued a decision on the challenges to the 2002 NSR reform rules. *New York v. United States*, 413 F.3d 3 (D.C. Cir. 2005). In summary, the D.C. Circuit Court vacated portions of EPA's NSR rules pertaining to clean units and pollution control projects, remanded a portion of the rules regarding recordkeeping and relating to language in 40 CFR 52.21(r)(6), 40 CFR 51.166(r)(6), and 40 CFR 51.165(a)(6), and either upheld or did not comment on the other provisions included as part of the 2002 NSR reform rules. Kentucky's SIP revisions being approved today do not contain any provisions of the 2002 NSR reform rules that were vacated as part of the June 2005 decision.

EPA continues to move forward with its evaluation of the portion of its NSR reform rules that were remanded by the

D.C. Circuit Court. Kentucky's SIP revisions are approvable at this time because the Kentucky rules are substantially the same as the current federal rules. If EPA adopts criteria that are more stringent than the current Kentucky rules, the Commonwealth's rules may need to be revised to be at least as stringent as the federal requirement.

The 2002 NSR reform rules require that state agencies adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements of the 2002 NSR reform rules no later than January 2, 2006. (Consistent with changes to 40 CFR 51.166(a)(6)(i), state agencies are now required to adopt and submit SIP revisions within three years after new amendments are published in the **Federal Register**.) State agencies may meet the requirements of 40 CFR part 51, and the 2002 NSR reform rules, with different but equivalent regulations. However, if a state decides not to implement any of the new applicability provisions, that state is required to demonstrate that its existing program is at least as stringent as the federal program.

On September 2, 2004, the Commonwealth of Kentucky submitted SIP revisions including changes to Kentucky's NSR program and a rule on ozone depleting substances. The NSR program changes were made primarily to adopt EPA's 2002 NSR reform rules. On February 10, 2006 (71 FR 6988) EPA published a notice of proposed rulemaking (NPR) proposing to approve revisions to three regulations that are already part of the Kentucky SIP. The affected regulations are: 401 Kentucky Administrative Regulations (KAR) 51:001, "Definitions for 401 KAR Chapter 51"; 401 KAR 51:017, "Prevention of Significant Deterioration of Air Quality"; and 401 KAR 51:052, "Review of New Sources in or Impacting upon Nonattainment Areas." Kentucky's revisions are consistent with the federal NSR regulations published December 31, 2002 (67 FR 80186) and November 7, 2003 (68 FR 63021).

Kentucky's SIP revisions also included a rule setting a significance level for ozone depleting substances, as part of 401 KAR Chapter 51:017. Kentucky's definition of "significance" (definition 221), includes a significance threshold for ozone depleting substances (ODS) of 100 tons per year (tpy). The current federal rule (51.166(b)(23)(ii)) does not contain a specific threshold for ODS. In 1996, however, EPA proposed a 100 tpy threshold for ODS. See 61 FR 38250, July 23, 1996. Based on the rationale

provided in the 1996 proposal, EPA believes that it is reasonable for Kentucky to adopt this threshold. If EPA issues a final rule that establishes a threshold for ODS that is different from the one proposed in 1996, EPA may take further action to ensure that the Kentucky rule is consistent with the federal rule. At this time, however, Kentucky's rule is approvable and EPA is taking final action today to approve this rule into the Kentucky SIP.

The February 10, 2006, NPR, and the Docket for this action, provide more details about the SIP revisions being approved today and the rationale for EPA's final action. For additional information on EPA's 2002 NSR reform rules, see 67 FR 80186 (December 31, 2002), and <http://www.epa.gov/nsr>.

III. Final Action

EPA is taking final action to approve revisions to Kentucky's SIP to include changes to Kentucky regulations, 401 KAR 51:001, 401 KAR 51:017, and 401 KAR 51:052 submitted by the Commonwealth of Kentucky on September 2, 2004, and amended on August 23, 2005. EPA is taking no action on the following provisions of the Kentucky regulations, which include portions of EPA's 2002 NSR reform rules that were vacated by the D.C. Circuit Court: Sections 20, 21, and 22 of 401 KAR 51:017, Sections 11, 12, and 13 of 401 KAR 51:052, and definitions (38) and (188) in Section 1 of 401 KAR 51:001.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This final 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 final 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).

This final rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This final action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law, and therefore, it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This final 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 September 11, 2006. 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 29, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 et seq.

Subpart S—Kentucky

■ 2. Section 52.920(c), Table 1 is amended by revising the entries for "401 KAR 51:001", "401 KAR 51:017" and "401 KAR 51:052" to read as follows:

§ 52.920 Identification of plan.

* * * * *
(c) * * *

TABLE 1.—EPA-APPROVED KENTUCKY REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|----------------|---|----------------------|--|---|
| 401 KAR 51:001 | Definitions for 401 KAR Chapter 51. | 07/14/2004 | 07/11/06 [Insert citation of publication]. | EPA is taking no action on definitions (38) "Clean Unit" and (188) "Pollution Control Project". |
| 401 KAR 51:017 | Prevention of significant deterioration of air quality. | 07/14/2004 | 07/11/06 [Insert citation of publication]. | EPA is taking no action on sections 20, 21, and 22. |
| 401 KAR 51:052 | Review of new sources in or impacting upon nonattainment areas. | 07/14/2004 | 07/11/06 [Insert citation of publication]. | EPA is taking no action on sections 11, 12, and 13. |

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2006-0296; FRL-8191-8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Eight Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Commonwealth of Pennsylvania State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for seven major sources of volatile organic compounds (VOC) and one source of nitrogen oxides (NO_x)

pursuant to the Commonwealth of Pennsylvania's (Pennsylvania's or the Commonwealth's) SIP-approved generic RACT regulations. EPA is approving these revisions in accordance with the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on August 10, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2006-0296. 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 <http://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 State submittal are

available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: LaKeshia N. Robertson, (215) 814-2113, or by e-mail at robertson.lakeshia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 27, 2006 (71 FR 24834), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of formal SIP revisions submitted by Pennsylvania on March 27, 1995, August 1, 1995, January 10, 1996, March 21, 1996, October 18, 1996, June 22, 1999, and July 28, 1999. These SIP revisions consist of source-specific operating permits issued by PADEP to establish and require RACT pursuant to the Commonwealth's SIP-approved generic RACT regulations. The following table identifies the sources and the individual operating permits (OPs) which are the subject of this rulemaking.

PENNSYLVANIA.—VOC AND NO_x RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

| Source's name | County | Operating permit (OP No.) consent order (CO No.) | Source type | "Major source" pollutant |
|---|----------------|--|---|--------------------------|
| Carlisle Tire & Rubber Company | Cumberland | 21-2003 | Specialty Tire Manufacturing. | VOC. |
| The Carbide/Graphite Group, Inc | Elk | OP 24-012 | Graphite Electrode and Graphite Specialties Manufacturing Facility. | VOC. |
| Celotex Corporation | Northumberland | OP 49-0013 | Fiberboard Manufacturing Facility. | VOC. |
| American Railcar Industries, Inc. Shippers Car Line Division. | Northumberland | OP-49-0012 | Railcar Cleaning and Re-furbishment Operation. | VOC. |