

Dated: April 27, 2009.

**Fred M. Rosa, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Fifth Coast Guard District.*

[FR Doc. E9-10751 Filed 5-7-09; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0288]

#### Safety Zone; Chicago Harbor, Navy Pier East, Chicago, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Navy Pier East Safety Zone in Chicago Harbor from 9 p.m. until 9:40 p.m. on May 22, 2009. This action is necessary to protect vessels and people from the hazards associated with fireworks displays. All vessels must obtain permission from the Captain of the Port or his on-scene representative to enter, move within or exit the safety zone.

**DATES:** The regulations in § 165.933 will be enforced from 9 p.m. on May 22, 2009 to 9:40 p.m. on May 22, 2009.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail LCDR Kimber Bannan, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747-7154, e-mail [Kimber.L.Bannon@uscg.mil](mailto:Kimber.L.Bannon@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zone, Navy Pier East, Chicago Harbor, Chicago, IL, found in 33 CFR 165.933 (published on June 13, 2007 at 72 FR 32525) on May 22, 2009 from 9 p.m. through 9:40 p.m., for the Municipal Clerks of Illinois Fireworks.

The general regulations in 33 CFR 165.23 apply. All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or a designated representative. All vessels must obtain permission from the Captain of the Port or his designated representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

This notice is issued under authority of 33 CFR 165.933 Safety Zone, Navy Pier East, Chicago Harbor, Chicago, IL, and 5 U.S.C. 552(a). In addition to this notice in the Federal Register, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners and Local Notice to Mariners.

The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. The Captain of the Port may be contacted via U.S. Coast Guard Sector Lake Michigan on channel 16, VHF-FM.

Dated: April 23, 2009.

**Bruce C. Jones,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. E9-10756 Filed 5-7-09; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2009-0043; FRL-8901-8]

#### Finding of Failure To Submit State Implementation Plans Required for the 1997 8-Hour Ozone National Ambient Air Quality Standard; North Carolina and South Carolina

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking a final action finding that North Carolina and South Carolina have failed to submit state implementation plan (SIP) revisions to satisfy certain requirements of the Clean Air Act (CAA) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The submissions at issue were due because the Charlotte bi-state area (Charlotte Area), which includes areas in both North and South Carolina, is a moderate nonattainment area for the 1997 8-hour ozone standard. Under the CAA and EPA's implementing regulations, states with nonattainment areas classified as moderate, serious, severe or extreme were required to submit by June 15, 2007, SIPs demonstrating how each nonattainment area would attain the 1997 8-hour ozone standard as expeditiously as practicable but no later than the applicable dates

established in the implementing regulations and demonstrating reasonable further progress (RFP). Additionally, states were required by September 15, 2006, to submit for these same areas, SIPs demonstrating that sources specified under the CAA were subject to reasonably available control technology requirements (RACT). North Carolina and South Carolina made these required submissions but later withdrew the attainment demonstration submissions for the Charlotte Area. As a result, EPA is making a finding of failure to submit for both North Carolina and South Carolina of the attainment demonstrations for the Charlotte Area.

**DATES:** *Effective Date:* This action is effective on May 8, 2009.

**FOR FURTHER INFORMATION CONTACT:** General questions concerning this notice should be addressed to Mr. Richard A. Schutt, U.S. EPA Region 4; e-mail: [Schutt.dick@epa.gov](mailto:Schutt.dick@epa.gov); telephone (404) 562-9033.

#### SUPPLEMENTARY INFORMATION:

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#### I. Background

The CAA requires states with areas that are designated nonattainment for the 1997 8-hour ozone NAAQS to develop a SIP providing how such areas will attain and maintain the NAAQS. Part D of title I of the CAA specifies the required elements of a SIP for an area designated nonattainment. These requirements include, but are not limited to, RFP, RACT, and an attainment demonstration. See CAA sections 172 and 182. On March 24, 2008, EPA published a final rule in the **Federal Register** announcing that EPA had found that 11 states failed to make required SIP submissions for 11 nonattainment areas and 3 states or portions of states in the Ozone Transport Region. 73 FR 15416. At that time, EPA was in receipt of the required submissions from North Carolina and South Carolina for RFP, RACT and an attainment demonstration. However, both North Carolina and South Carolina have since withdrawn their attainment demonstration submittals, thus resulting in their failure to submit a required SIP.

EPA received the required submittals from North Carolina on June 15, 2007, and South Carolina on August 31, 2007. EPA reviewed the submittals, as well as air quality data from the ozone season in 2007 and, more recently, preliminary

data from the ozone season in 2008. After undertaking this review, EPA sent North Carolina and South Carolina letters on November 17, 2008, explaining its intention to propose disapproval of the attainment demonstrations for the Charlotte Area for the 1997 8-hour ozone standard by January 9, 2009, unless the States requested voluntary reclassification from moderate to serious. EPA's letter was prompted by air quality data for the area which indicates that the area will be unable to meet the latest moderate area attainment date of June 2010, which was the attainment date relied on in the submitted attainment demonstrations. On December 19, 2008, and December 22, 2008, the states of North Carolina and South Carolina, respectively, submitted letters to EPA withdrawing their attainment demonstrations for the Charlotte area. As such, EPA no longer has pending before it the required attainment demonstrations for the 1997 8-hour ozone standard for either the North Carolina or South Carolina portion of the Charlotte Area. Therefore, EPA is now making a finding of failure to submit for North Carolina and South Carolina for these required SIPs. Specifically, this finding is for the attainment demonstration requirement found in sections 172, 182(b), of the CAA, and 40 CFR 51.112 and 40 CFR 51.908 (c) and (d), of EPA's implementing regulations.

On January 9, 2009, letters were sent to North Carolina and South Carolina informing them that as a result of the withdrawal of their attainment demonstrations, EPA would be moving forward with a finding of failure to submit the attainment demonstration SIP elements. On January 9, 2009, EPA also sent the Catawba Indian Nation a letter informing them of this pending EPA action. The Catawba Indian Nation has land that is included in York County, South Carolina, which is included as part of the Charlotte Area.<sup>1</sup> These letters, and any accompanying enclosures, have been included in the docket to this rulemaking.

## II. Statutory Requirements

On July 18, 1997, EPA issued a revised ozone standard. At that time, the ozone standard was 0.12 parts per million (ppm) measured over a 1-hour period. EPA revised the NAAQS to rely on an 8-hour averaging period (versus 1 hour for the previous NAAQS), and the

<sup>1</sup> The Catawba Indian Nation does not have jurisdiction over CAA implementation. See, e.g., 69 FR 23858, 23862 (April 30, 2004) (EPA 8-hour ozone classifications explaining Tribal involvement).

level of the standard was changed from 0.12 ppm to 0.08 ppm (62 FR 38856). EPA's initial implementation strategy for the 1997 8-hour standard was vacated and remanded by the Supreme Court. *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001). On April 30, 2004 (69 FR 23951) and on November 29, 2005 (70 FR 71612), EPA published final rules that addressed the elements related to implementation of the 1997 8-hour ozone NAAQS (Phase 1 and Phase 2 Implementation Rules). In an April 30, 2004, rulemaking (69 FR 23858), EPA designated attainment and nonattainment areas for the 1997 8-hour ozone standard, and specified the classification for each nonattainment area. The 1997 8-hour ozone designations took effect on June 15, 2004. The November 30, 2005, Phase 2 implementation rule set forth deadlines for state and local governments to develop and submit to EPA implementation plans designed to meet the 1997 8-hour standard by reducing air pollutant emissions contributing to ground-level ozone concentrations. The Phase 2 Rule required states with nonattainment areas to submit SIPs by June 15, 2007, demonstrating how each nonattainment area would attain the 1997 8-hour ozone standard as expeditiously as practicable, but no later than specified dates and demonstrating how the area would make reasonable further progress toward attainment in the years prior to the attainment year. Additionally, the Phase 2 Rule required states to submit SIPs requiring RACT for nonattainment areas and for areas within the OTR by September 15, 2006.

## III. Consequences of Findings of Failure To Submit

The CAA establishes specific consequences if EPA finds that a state has failed to submit a SIP or, with regard to a submitted SIP, EPA determines it is incomplete or disapproves it. CAA section 179(a)(1). Additionally, any of these findings also triggers an obligation for EPA to promulgate a Federal Implementation Plan (FIP) if the states have not submitted, and EPA has not approved the required SIP within 2 years of the finding. CAA section 110(c). The first finding, that a state has failed to submit a plan or one or more elements of a plan required under the CAA, is the finding relevant to this action.

EPA is finding that North Carolina and South Carolina have failed to make required attainment demonstration SIP submissions for the Charlotte Area. If EPA has not affirmatively determined that North Carolina and South Carolina have made the required complete

submittals for the area within 18 months of the effective date of this action, pursuant to CAA section 179(a) and (b) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b)(2) will apply in the area subject to the finding.<sup>2</sup> The highway funding sanction will apply six months after the offset sanctions applies if EPA has not determined that the states submitted complete attainment demonstration submittals within that time. The sanctions clock will stop and the sanctions will not take effect if, within the required timeframe after the date of the finding, EPA finds that the States have made complete attainment demonstration submittals. In addition, we note that if the area is reclassified to serious or above for the 1997 8-hour standard, the area will then have a new attainment demonstration requirement for its new classification and such reclassification would stop the sanction clock triggered for the moderate area attainment demonstration.

In addition, this finding triggers EPA's FIP obligation. However, EPA is not required to promulgate a FIP if the States make the required SIP submittals and EPA takes final action to approve the submittals within 2 years of EPA's finding. Additionally, if the area is reclassified for the 1997 ozone standard, EPA would be relieved of the FIP obligation.

## IV. Final Action

In this action, EPA is making a finding that North Carolina and South Carolina have failed to submit the required moderate-area attainment demonstration SIP submittals for the Charlotte Area for the 1997 8-hour ozone standard. This finding starts the sanctions clock and a 24-month clock for the promulgation of a FIP by EPA. This action will be effective on May 8, 2009.

<sup>2</sup> If EPA has not affirmatively determined that the state has made a complete submission within 6 months after the offset sanction is imposed, then the highway funding sanction will apply in areas designated nonattainment, in accordance with CAA section 179(b)(1) and 40 CFR 52.31. If the highway funding sanction is implemented, the conformity status of the transportation plans and transportation improvement programs will lapse on the date of implementation of the highway sanctions. During a conformity lapse, only projects that are exempt from transportation conformity, transportation control measures that are in the approved SIP, and project phases that were approved prior to the start of the lapse can proceed.

## V. Statutory and Executive Order Reviews

### A. Notice and Comment Under the Administrative Procedure Act (APA)

This is a final EPA action, but is not subject to notice-and-comment requirements of the APA, 5 U.S.C. 553(b). EPA believes that because of the limited time provided to make findings of failure to submit regarding SIP submissions, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure to submit elements of SIP submissions required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert agency resources from the critical substantive review of complete SIPs. See 58 FR 51270, 51272, n.17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

### B. Effective Date Under the APA

This action will be effective on May 8, 2009. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if the agency has good cause to specify an earlier effective date. This action concerns SIP submissions that are already overdue; and EPA previously cautioned the affected states that the SIP submissions were overdue and that EPA was considering taking this action. In addition, this action simply starts a “clock” that will not result in sanctions against the states for 18 months, and that the states may “turn off” through the submission of complete SIP submittals. These reasons support an effective date prior to 30 days after the date of publication.

### C. Executive Order 12866: Regulatory Planning and 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 the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a “significant regulatory action” because none of the above factors apply. As such, this final rule was not submitted to OMB for review.

### D. 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.* This rule relates to the requirement in the CAA for states to submit SIPs under section Part D of title I of the CAA to satisfy elements required for the 1997 8-hour ozone NAAQS. The present final rule does not establish any new information collection requirement. Burden means that total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in the CFR are listed in 40 CFR part 9.

### E. Regulatory Flexibility Act (RFA)

This final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because although the rule is subject to the APA, the Agency has invoked the “good cause” exemption under 5 U.S.C. 553(b), therefore it is not subject to the notice and comment requirement.

### F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on state, local and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandate” that may result in expenditures to state, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small government on compliance with regulatory requirements. This action

does not include a Federal mandate within the meaning of UMRA that may result in expenditures of \$100 million or more in any 1 year by either state, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. It does not create any additional requirements beyond those of the 1997 8-hour ozone NAAQS (62 FR 38652; 62 FR 38856, July 18, 1997), therefore, no UMRA analysis is needed. EPA has determined that this action is not a Federal mandate. The CAA provisions require states to submit SIPs. This notice merely provides a finding that the States at issue have not met the requirement to submit certain SIPs and begins a clock that could result in the imposition of sanctions if the states continue to not meet this statutory obligation. This notice does not, by itself, require any particular action by any state, local, or Tribal government; or by the private sector. For the same reasons, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The EPA believes that any new controls imposed as a result of this action will not cost in the aggregate \$100 million or more annually. Thus, this Federal action will not impose mandates that will require expenditures of \$100 million or more in the aggregate in any 1 year.

#### *G. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, or the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." This final rule 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. The CAA establishes the scheme whereby states take the lead in developing plans to meet the NAAQS and the Federal Government acts as a backstop where states fail to take the required actions.

This rule will not modify the relationship of the states and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this rule.

#### *H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." EPA has concluded that this final rule will not have Tribal implications. It will neither impose substantial direct compliance costs on Tribal governments, nor preempt Tribal law. This rule responds to the requirement in the CAA for states to submit SIPs to satisfy the nonattainment area requirements of the CAA for the 1997 8-hour ozone NAAQS. The CAA requires states with areas that are designated nonattainment for the NAAQS to develop a SIP describing how the state will attain and maintain the NAAQS. There are Tribal governments within certain nonattainment areas for which this rule turns on a sanctions clock. However, this rule does not have Tribal implications because it does not impose any compliance costs on Tribal governments nor does it preempt Tribal law. The rule 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).

#### *I. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045: "Protection of Children From Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives

considered by the Agency. This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action should reduce the levels of harmful pollutants in the air that should reduce harmful effects on children.

#### *J. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. In this action, EPA is finding that several states have failed to submit SIPs to satisfy certain nonattainment area requirements of the CAA for the 1997 8-hour ozone NAAQS.

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

Executive Order 12898 (59 FR 7629 (February 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. 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 directly affect the level of protection provided to human health or the environment. This notice finds that certain states have not met the requirement to submit one or more SIPs and begins a clock that could result in the imposition of sanctions if the states continue to not meet this statutory obligation. If the states fail to submit the required SIPs or if they submit SIPs that EPA cannot approve, then EPA will be required to develop the plans in lieu of the states.

### *L. National Technology Transfer Advancement Act*

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

### *M. 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. 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 May 8, 2009.

### *N. Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit Court within 60 days from the date final action is published in the **Federal Register**. 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 must be filed, and shall not postpone the effectiveness of such rule or action. Thus, any petitions for review of this action making findings of failure to submit attainment demonstration SIPs for the Charlotte Area, must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

### List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 29, 2009.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E9–10683 Filed 5–7–09; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 745

#### Lead-Based Paint Poisoning Prevention in Certain Residential Structures

#### *CFR Correction*

In Title 40 of the Code of Federal Regulations, parts 700 to 789, revised as of July 1, 2008, on page 609, in § 745.225, remove the phrase “lead-based paint activities” and add in its place the phrase “renovator, dust sampling technician, or lead-based paint activities” in paragraphs (c)(13)(i) (two occurrences); (c)(13)(ii) introductory text, (A), and (B); (c)(13)(iii); (c)(13)(vi); and (c)(13)(viii).

[FR Doc. E9–10939 Filed 5–7–09; 8:45 am]

**BILLING CODE 1505–01–D**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 8

[Docket No. USCG–2008–1014]

**RIN 1625–AB31**

#### International Air Pollution Prevention (IAPP) Certificates

**AGENCY:** Coast Guard, DHS.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** By this direct final rule, the Coast Guard amends its vessel inspection regulations to add the International Air Pollution Prevention (IAPP) certificate to the list of certificates a recognized classification society may be authorized to issue on behalf of the United States. This action is being taken because the United States recently deposited an instrument of ratification with the International

Maritime Organization for Annex VI of the International Convention for the Prevention of Pollution by Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78). As a result, Annex VI entered into force for the United States on January 8, 2009. This rulemaking will offer a more efficient means for U.S. ships to obtain an IAPP certificate.

**DATES:** This rule is effective August 6, 2009, unless an adverse comment, or notice of intent to submit an adverse comment, is either submitted to our online docket via <http://www.regulations.gov> on or before June 22, 2009 or reaches the Docket Management Facility by that date. If an adverse comment, or notice of intent to submit an adverse comment, is received by June 22, 2009, we will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

**ADDRESSES:** You may submit comments identified by docket number USCG–2008–1014 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Mr. Wayne Lundy, Systems Engineering Division, Coast Guard, telephone 202–372–1379. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

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