

Bridge at mile 3.4 across the Hackensack River and notice of that temporary deviation was made along with the notice for the Witt Penn Bridge. This temporary deviation was issued to facilitate bridge maintenance for the above bridges; however, the maintenance for the Witt Penn Bridge has been postponed necessitating the early cancellation of that portion of the temporary deviation. The maintenance of the Lower Hack Bridge will continue as planned, and the temporary deviation approved for the Lower Hack Bridge remains in effect. Once new dates are provided for the maintenance of the Witt Penn Bridge any new temporary deviation will be published in the **Federal Register**.

DATES: The temporary deviation published on April 29, 2009 (74 FR 19421) pertaining to the Witt Penn Bridge across the Hackensack River at mile 3.1, across the Hackensack River, at Jersey City, New Jersey is cancelled as of June 23, 2009.

ADDRESSES: The docket for this cancelled deviation is available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0210 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Project Officer, First Coast Guard District, gary.kassof@uscg.mil, telephone 212-668-7165.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On April 29, 2009, we published a temporary deviation entitled "Drawbridge Operation Regulations; New Jersey" in the **Federal Register** (71 FR 19421). The temporary deviation concerned the Witt Penn Bridge at mile 3.1, and the Lower Hack Bridge, mile 3.4, both across the Hackensack River at Jersey City, New Jersey.

Cancellation

The Coast Guard received an additional request from the bridge owner of the Witt Penn Bridge, New Jersey Department of Transportation, on June 10, 2009, requesting the cancellation of the temporary deviation for the Witt Penn Bridge because the

scheduled maintenance repairs did not begin on schedule due to a contractual dispute.

The work for the Lower Hack Bridge began on schedule and will continue through July 22, 2009, as planned.

The remaining bridge closure time period necessary to complete the maintenance work for the Lower Hack Bridge remains in effect through July 22, 2009. If granted, a temporary deviation for the Witt Penn Bridge covering the revised maintenance work period will be published under a new temporary deviation in the **Federal Register**.

The need to cancel the temporary deviation for the scheduled maintenance at the Witt Penn Bridge was due to a contractual dispute which delayed the start date of the bridge maintenance.

Dated: June 17, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2009-0352; FRL-8929-2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County, Continuous Opacity Monitor Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Pennsylvania State Implementation Plan (SIP). This SIP revision, "Revision 58, Continuous Opacity Monitor Regulation Changes," consists of changes to the Allegheny County Health Department (ACHD) Rules and Regulations, Article XXI, Air Pollution Control. EPA is approving this revision to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on September 11, 2009 without further notice, unless EPA receives adverse written comment by August 12, 2009. If EPA receives such comments, it 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: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2009-0352 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:*

fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2009-0352, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2009-0352. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, 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 in <http://www.regulations.gov> or in hard copy 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 Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814-2181, or by e-mail at pino.maria@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 16, 2007, the Commonwealth of Pennsylvania submitted a formal revision to the Pennsylvania SIP. The SIP revision consists of changes to Article XXI of the ACHD Rules and Regulations to specify the method to determine compliance with opacity requirements for coke oven combustion stacks, allow the use of continuous opacity monitoring systems (COMS) to measure visual emissions, and remove a redundant phrase in the current approved SIP.

II. Summary of SIP Revision

The revisions in “Revision 58, Continuous Opacity Monitor Regulation Changes” make three changes to the ACHD Rules and Regulations, Article XXI, Air Pollution Control.

The revision to § 2105.21.f specifies the method to determine compliance with opacity requirements for coke oven combustion stacks. The new language states that opacity measurements are to be performed according to the methods established in § 2107.11. This addition to § 2105.21.f strengthens the Pennsylvania SIP because the current SIP does not specify visible emission compliance methods for coke oven combustion stacks.

The revision to § 2107.11 allows the use of COMS to measure visual emissions. Previously, compliance with visible emission requirements was determined only by EPA Method 9, which requires a certified smoke reader to observe the emissions leaving the stack during daylight hours. EPA Method 9 had been the only federally acceptable method to determine compliance with visibility emissions. However, on February 24, 1997, EPA promulgated its Credible Evidence

Revisions, which clarified that non-reference test data, i.e., any creditable evidence, can be used in enforcement actions and for compliance determinations under the Clean Air Act (62 FR 8314). Thus, Method 9 is not the exclusive means to determining compliance with visibility requirements, and the use of data from COMS is deemed acceptable. This change strengthens the Pennsylvania SIP by allowing the use of COMS data to determine compliance with visibility requirements, which will make compliance determinations easier.

The revision to § 2108.03 removes the redundant phrase, “within the time specified,” in the current approved SIP. This revision does not change the meaning of § 2108.03, but adds clarity. Therefore, this revision is approvable.

III. Final Action

EPA is approving “Revision 58, Continuous Opacity Monitor Regulation Changes,” submitted by the Commonwealth of Pennsylvania on May 16, 2007. The revision to § 2105.21.f specifies the method to determine compliance with opacity requirements for coke oven combustion stacks in Allegheny County. The revision to § 2107.11 allows the use of COMS to measure visual emissions in Allegheny County. The revision to § 2108.03 removes a redundant phrase in the current approved SIP. EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. This revision to the Pennsylvania SIP serves to strengthen and add clarity to the SIP, but does not add any new regulatory requirements. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 11, 2009 without further notice unless EPA receives adverse comment by August 12, 2009. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of

this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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 action 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).

C. Petitions for Judicial Review

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, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action, which revises the Pennsylvania SIP to establish the method to determine compliance with opacity requirements for coke oven combustion stacks and allows the use of COMS to measure visible emissions in Allegheny County, and removes a redundant phrase in the current

approved SIP, 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 1, 2009.

William C. Early,

Acting 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 *et seq.*

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(2) is amended by revising the entries for Article XXI, Sections 2105.21, 2107.11, and 2108.03 to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

| Article XX or XXI citation | Title/subject | State effective date | EPA approval date | Additional explanation/§ 52.2063 citation |
|---|---------------------------------|----------------------|--|--|
| * | * | * | * | * |
| Part E—Source Emission and Operating Standards | | | | |
| * | * | * | * | * |
| Subpart 2—Slag, Coke, and Miscellaneous Sulfur Sources | | | | |
| § 2105.21 | Coke Oven and Coke Gas Oven. | 4/1/07 | 7/13/09, [Insert page number where the document begins]. | Revision to paragraph 2105.21.f (Combustion Stacks). |
| * | * | * | * | * |
| Part G—Methods | | | | |
| § 2107.11 | Visible Emissions | 4/1/07 | 7/13/09, [Insert page number where the document begins]. | |
| * | * | * | * | * |
| Part H—Reporting, Testing & Monitoring | | | | |
| § 2108.03 | Continuous Emission Monitoring. | 4/1/07 | 7/13/09, [Insert page number where the document begins]. | Revision to paragraph 2108.03.f (Violations). |
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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[VA201-5202; FRL-8923-9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; administrative change.

SUMMARY: EPA is updating the materials submitted by Virginia that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the Virginia Department of Environmental Quality (DEQ) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

DATES: *Effective Date:* This action is effective July 13, 2009.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Ave. NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814-2108 or by e-mail at frankford.harold@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

The SIP is a living document which the State revises as necessary to address the unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the **Federal Register** (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997 **Federal Register** document. On April 21, 2000 (65 FR 21315), EPA published a **Federal Register** action beginning the new IBR procedure for Virginia. On September 8, 2004 (69 FR 54216), November 3, 2005 (70 FR 66769) and July 16, 2007 (72 FR 38920), EPA published updates to the IBR material for Virginia.

II. EPA Action

In this document, EPA is doing the following:

A. Announcing the update to the IBR material as of June 1, 2009.

B. Making corrections to the following entries listed in the paragraph 52.2420(c) table, as described below:

1. In the entry 5-20-203, revising the text in the "Title/subject" column.

2. Revising the titles for the following entries: Chapter 40, Part II, Articles 49 and 50.

3. Incorporating the entry for 5-40-1750.

4. In the entry 5-40-1670, reorganizing the text in the "Title/subject" and "Explanation [former SIP citation]" columns without making any substantive revisions to the list of SIP-approved definitions.

5. In the entry 5-40-5610, removing the quotation marks from the terms listed in the "Explanation [former SIP section]" column.

6. In the entry 5-40-7810, removing the quotation marks from the terms listed in the "Title/subject" column.

7. Removing entries 5-80-1835, 5-80-1845, and 5-80-1855, they are designated as "reserved," and contain no text that is incorporated by reference.

8. In the entry 5-80-2130, correcting a typographical error to the text in the "Title/subject" column.

9. Correcting the date format in the "State effective date" column for the following entries: Chapter 10, section 5-10-20; Chapter 20, section 5-20-203; Chapter 40, Part II, Article 4, section 5-40-300; Article 36, section 5-40-5060;

Article 37, section 5-40-5200; Article 41, section 5-40-5700; Article 42, sections 5-40-5700, 5-40-5720, and 5-20-5750; Article 48, section 5-40-6970; Article 49, sections 5-40-7120, 5-40-7130, 5-40-7140, and 5-40-7210; Article 50, sections 5-40-7240, 5-40-7270, 5-40-7300, 5-40-7330, and 5-40-7360; Article 53, all sections; and Chapter 230, all sections.

C. In the paragraph 52.2420(d) table, correcting the date format in the "State effective date" column for the following entries: Columbia Gas Transmission Company-Loudoun County Compressor Station, and Global Stone Chemstone Corporation.

D. Making corrections to the following entries listed in the paragraph 52.2420(e) table, as described below:

1. Rearranging the order of entries for "Documents Incorporated by Reference."

2. Correcting the date format in the "State effective date" column for the following entries: All nonregulatory and quasi-regulatory entries associated with the Washington 1-hour ozone nonattainment area, and the entry for RACT under the 8-Hour NAAQS (Stafford County).

3. Removing the SIP effective date text in the "Additional explanation column" for the entry entitled "Documents Incorporated by Reference (9 VAC 5-20-21, Paragraphs E.4.a.(21) and (22))." EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation, and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

III. Statutory and Executive Order Reviews**A. General Requirements**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the