

categorical exclusion determination as appropriate.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0048 to read as follows:

#### § 165.T01–0048 Regulated Navigation Area; MBTA Saugus River Railroad Drawbridge rehabilitation project, Saugus River, MA.

(a) *Location.* The following area is a Regulated

Navigation Area (RNA): All navigable waters, surface to bottom, on the Saugus River, within a 300 yard radius of position 42°26'50" N, 70°58'19" W in the vicinity of the MBTA Saugus River Railroad Drawbridge between Saugus and Lynn, MA.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply in addition to those provisions outlined below.

(2) In accordance with the general regulations, entry into or movement within this zone during periods of enforcement is prohibited unless authorized by Captain of the Port Sector Boston (COTP).

(3) All persons and vessels must comply with all directions given to them by the COTP or the on-scene representative. The “on-scene representative” of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP’s behalf. The on-scene representative may be on a Coast Guard vessel or other designated craft, or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

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

(5) Notwithstanding any other provisions in this regulation, the

movement of official, emergency vessels within the regulated area will be permitted provided that the contractor is notified in order to remove potential hazards or obstructions.

(6) All other relevant regulations, including but not limited to the Rules of the Road (33 CFR Subchapter E, Inland Navigational Rules), remain in effect within the regulated area and must be strictly followed at all times.

(c) *Enforcement period.* (1) This regulation is enforceable each week from Friday at 11 p.m. until Monday at 4 a.m., from February 24, 2012, through November 30, 2012.

(2) The COTP Sector Boston will cause notice of enforcement to be made by all appropriate means to achieve the widest distribution among the affected segments of the public. Such means of notification may include but are not limited to Broadcast Notice to Mariners, Local Notice to Mariners, and Marine Safety Information Bulletins. Such notification will include the dates and times that enforcement will begin and end.

(d) *Penalties.* Failure to comply with this section may result in civil or criminal penalties pursuant to the Ports and Waterways Safety Act, 33 U.S.C. 1221 et seq. Report violations of this regulated navigation area to the COTP Sector Boston, at 617–223–5757 or on VHF–Channel 16.

Dated: February 17, 2012.

**D.A. Neptun,**

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

[FR Doc. 2012–5329 Filed 3–7–12; 8:45 am]

**BILLING CODE 9110–04–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R02–OAR–2011–0796, FRL–9645–4]

#### Approval and Promulgation of Implementation Plans; New York State Ozone Implementation Plan Revision

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a proposed revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The proposed SIP revision consists of amendments to Title 6 of the New York Codes, Rules and Regulations Part 228, “Surface Coating Processes, Commercial and Industrial

Adhesives, Sealants and Primers,” Part 234, “Graphic Arts,” and Part 241, “Asphalt Pavement and Asphalt Based Surface Coating.” The intended effect of this action is to approve control strategies, required by the Clean Air Act, which will result in emission reductions that will help attain and maintain the national ambient air quality standards for ozone.

**DATES:** *Effective Date:* This rule will be effective April 9, 2012.

**ADDRESSES:** EPA has established a docket for this action under the Federal Docket Management System (FDMS) which replaces the Regional Materials in EDOCKET (RME) docket system. The new FDMS is located at [www.regulations.gov](http://www.regulations.gov) and the docket ID for this action is EPA–R02–OAR–2011–0796. All documents in the docket are listed in the FDMS index. Publicly available docket materials are available either electronically in FDMS or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room 3334, 1301 Constitution Avenue NW., Washington, DC; and the New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

**FOR FURTHER INFORMATION CONTACT:** Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

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#### I. What was included in New York’s submittals?

On August 19, 2010 and December 15, 2010, the New York State Department of Environmental Conservation (NYSDEC),

submitted to EPA proposed revisions to the SIP, which included state adopted revisions to three regulations contained in Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 228, "Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers," Part 234, "Graphic Arts," and Part 241, "Asphalt Pavement and Asphalt Based Surface Coating" with effective dates of September 30, 2010, July 8, 2010 and January 1, 2011, respectively. These revisions are applicable statewide and will therefore provide volatile organic compound (VOC) emission reductions statewide and will address, in part, attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS or standard) in the Poughkeepsie, Jefferson County and the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT (NYMA) moderate nonattainment areas.

## II. What is EPA's evaluation of part 228, "Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers?"

Part 228 contains the required elements for a federally enforceable rule: emission limitations, compliance procedures and test methods, compliance dates and record keeping provisions. In contrast to the Control Techniques Guideline (CTG) document for Miscellaneous Industrial Adhesives dated September 2008, Part 228 is applicable to all stationary sources including those applications that occur outside of the factory setting, such as applied in the field. In addition, it includes provisions that apply to the selling, supplying, offering for sale or manufacture for sale in New York of adhesives, sealants, adhesive primers and sealant primers, along with container labeling requirements and product registrations. The VOC content restrictions for these products apply to both their manufacture and application. Stationary sources also have the option of using add-on control equipment provided it achieves 85 percent control. Part 228 also regulates the VOC content/vapor pressure of surface-preparation and clean-up solvents for which the CTG did not make recommendations other than including work practices.

EPA recommends that when states evaluate reasonably available control technology (RACT), as required by section 182(b), when implementing a revised 8-hour ozone standard, that they review the VOC content limits for wood adhesives. This category of adhesives is included in the CTG recommended VOC emission limits. Overall, Part 228: (1) Regulates the same adhesives and

adhesive primers as the CTG with the addition of regulating sealants and sealant primers, (2) applies to additional stationary sources, and (3) provides for similar exemptions as the CTG recommends.

EPA has evaluated New York's submittal for consistency with the Clean Air Act, EPA regulations, and EPA policy. EPA has determined that Part 228 is as effective in regulating this source category as the CTG and is approving it as part of the SIP and as meeting the requirement to adopt a RACT rule for the Miscellaneous Industrial Adhesives CTG category.

## III. What is EPA's evaluation of part 234, "Graphic Arts?"

Part 234 contains the required elements for a federally enforceable rule: Emission limitations, compliance procedures and test methods, compliance dates and record keeping provisions.

In contrast to the two CTG documents, one for Offset Lithographic Printing and Letterpress Printing and a second for Flexible Package Printing, issued by EPA in September 2006, Part 234 is generally applicable to all graphic arts facilities located in a severe ozone nonattainment area, which includes the NYMA, or to facilities that emit total actual annual VOC graphic arts emissions of three tons or more on a 12-month rolling basis, which is consistent with or more stringent than the CTG's.

### *Offset Lithographic Printing and Letterpress Printing*

In addition to the general revisions to Part 234, the revised section 234.3 addresses the CTG for Offset Lithographic Printing and Letterpress Printing. Subsections (b), (c) and (d) were added and require more stringent emission controls. Subsection 234.3(b) requires control equipment achieve overall removal efficiencies, i.e., 90 percent if installed prior to July 8, 2010 and 95 percent if installed on or after July 8, 2010. Subsection 234.3(d) includes the VOC limits for heatset web, sheet-fed and cold-set offset lithographic printing processes. Subsection 234.3(c) limits provisions for cleaning materials to a composite vapor pressure less than 10 mm Hg (millimeters mercury) or VOC content of less than 70 percent by weight, with some exceptions. In addition, section 234.6 requires best management practices for handling, storage and disposal of VOCs, such as keeping VOC and VOC containing materials in closed containers, keeping VOC containing shop towels in closed containers, and recordkeeping requirements. These

revisions are consistent with the CTG recommendations issued on October 5, 2006.

EPA evaluated these provisions for consistency with the Clean Air Act, EPA regulations, and EPA policy and is approving them.

### *Flexible Package Printing*

In addition to the general provisions of Part 234, the revised subsection 234.3(a) addresses the CTG for Flexible Package Printing. Subsection 234.3(a)(1)(ii) was added and requires more stringent emission controls for publication rotogravure and other printing processes. Subsection 234.3(a)(1)(i) contains new maximum allowable VOC content limits for inks, coatings and adhesives (minus water). Section 234.6 requires best management practices (see above description). These revisions are consistent with the CTG recommendations issued on October 5, 2006.

EPA evaluated these provisions for consistency with the Clean Air Act, EPA regulations, and EPA policy and is approving them.

## IV. What is EPA's evaluation of part 241, "Asphalt Pavement and Asphalt Based Surface Coating?"

Part 241 contains the regulatory provisions applicable to asphalt pavements and asphalt based surface coatings. These provisions were previously regulated under 6 NYCRR Part 205, "Architectural and Industrial Maintenance (AIM) Coatings" and Part 211, "General Prohibitions." New York revised these two rules by removing the asphalt provisions and moving them into new rule Part 241.

New York removed the seasonal limit that allowed the use of cutback asphalt from October 16th to May 1st. Part 241 only allows the use of cutback asphalt in two circumstances: When the asphalt is used in the production of long-life stockpile material for pavement patching and repair and when the asphalt is used as a penetrating prime coat for the purpose of preparing a surface to receive asphalt pavement.

New York included a VOC content limit in Part 241 for asphalt surface coatings. No asphalt based surface coating may be applied, sold, offered for sale, or manufactured if it contains more than 100 grams of VOC per liter. This is consistent with the limit that was previously included in Part 205.

Part 241 also includes limits for emulsified asphalt. No emulsified asphalt, as classified under ASTM International standard specifications D 977 or D 2397 may be applied, sold, offered for sale, or manufactured that

contains oil distillate, as determined by ASTM International standard test method D 6997, in amounts that exceed the following limits (milliliters of oil distillate per 200 gram sample):

(a) Three milliliters for ASTM grades RS-1, SS-1, SS-1h, CRS-1, CSS-1, and CSS-1h;

(b) Five milliliters for ASTM grades RS-2, CRS-2, and HFRS-2;

(c) Sixteen milliliters for ASTM grades MS-2, HFMS-2 and HFMS-2h; and

(d) Twenty milliliters for ASTM grades CMS-2 and CMS-2h.

Similar limits were previously included in Part 211 but they were expressed as VOC content limits in percent by weight. The revised limits included in Part 241 are approximately 17–25 percent more stringent than what was previously included in Part 211.

EPA notes that while the revised limits in Part 241 are more stringent than the previous limits included in Part 211, the States of New Jersey, Delaware and Connecticut have adopted emission limits more stringent than Part 241, specifically during the ozone season months. EPA recommends that when New York evaluates RACT, as is required by section 182(b) when implementing a revised 8-hour ozone standard, that New York consider more stringent asphalt paving limits in line with those adopted by the neighboring states.

EPA evaluated the provisions of Part 241 for consistency with the Clean Air Act, EPA regulations, and EPA policy and is approving them.

#### V. What comments did EPA receive in response to its proposal?

On December 12, 2011 (76 FR 77178), EPA proposed to approve New York's revised Parts 228, 234 and 241. For a detailed discussion on the content and requirements of the revisions to New York's regulations, the reader is referred to EPA's proposed rulemaking action.

In response to EPA's December 12, 2011 proposed rulemaking action, EPA received no comments.

#### VI. What is EPA's conclusion?

EPA has evaluated New York's submittal for consistency with the Clean Air Act, EPA regulations, and EPA policy. EPA is approving the revisions made to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 228, "Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers," Part 234, "Graphic Arts," and new Part 241, "Asphalt Paving and Asphalt Based Surface Coating," with effective dates of September 30, 2010, July 8, 2010 and

January 1, 2011, respectively. EPA has determined that the revisions meet the SIP requirements of the Clean Air Act and fulfill the recommended controls identified in the applicable CTGs. EPA is approving these revisions and is also approving the revisions made to 6 NYCRR Part 205, "Architectural and Industrial Maintenance (AIM) Coatings" and Part 211, "General Prohibitions," both effective January 1, 2011, to avoid redundancy and conflict of the asphalt paving and coating provisions included in new Part 241.

#### VII. Statutory and Executive Order Reviews

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

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).

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 7, 2012. 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. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 27, 2012.

**Judith A. Enck,**  
Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

**Subpart HH—New York**

and adding new entry Part 241 in numerical order to read as follows:

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

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

■ 2. In § 52.1670, the table in paragraph (c) is amended by revising the entries for Title 6, Parts 205, 211, 228 and 234

**§ 52.1670 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED NEW YORK STATE REGULATIONS**

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6			
* * * * *			
Part 205, Architectural and Industrial Maintenance (AIM) Coatings.	1/1/11	3/8/12 [Insert page number where the document begins].	
* * * * *			
Part 211, General Prohibitions .....	1/1/11	3/8/12 [Insert page number where the document begins].	Section 211.1 (previously numbered 211.2) is not part of the approved plan. (see 11/27/98, 63 FR 65559)
* * * * *			
Part 228, Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers.	9/30/10	3/8/12 [Insert page number where the document begins].	
* * * * *			
Part 234, Graphic Arts .....	7/8/10	3/8/12 [Insert page number where the document begins].	SIP revisions submitted in accordance with §234.3(f) are effective only if approved by EPA.
* * * * *			
Part 241, Asphalt Pavement and Asphalt Based Surface Coating.	1/1/11	3/8/12 [Insert page number where the document begins].	
* * * * *			

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

[EPA-HQ-OAR-2010-0873; FRL-9643-9]

RIN 2060-AH23

**Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources**

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

**ACTION:** Direct final rule; announcement of extension of comment period.

**SUMMARY:** The EPA is extending the comment period for the direct final rule titled, "Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources," that were published in the **Federal Register** on February 14, 2012. The 30-day comment period is scheduled to end on March 15, 2012. The extended comment period will close on April 30, 2012. The EPA is extending the comment period

because of a request we received in a timely manner.

**DATES:** The comment period for the direct final February 14, 2012 (77 FR 8160), is extended. Comments must be received on or before April 30, 2012. The effective date for the rule remains April 16, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2010-0873 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* a-and-r-docket@epa.gov.
- *Fax:* (202) 566-9744.
- *Mail:* Attention Docket ID No. EPA-HQ-OAR-2010-0873, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* The EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. 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-HQ-OAR-2010-0873. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov*, your email 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, the EPA recommends that you include your name and other contact information in the body of your