

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

[Docket No. USCG-2018-0835]

**Drawbridge Operation Regulation; Hackensack River, Jersey City, NJ****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Hack-Freight Railroad Bridge across the Hackensack River, mile 3.1, at Jersey City, New Jersey. The deviation is necessary to replace four counterweight sheave assemblies on the west tower of the bridge. This temporary deviation allows the bridge to remain in the closed-to navigation position during the construction period.

**DATES:** This deviation is effective from 6 a.m. on September 30, 2018, until 6 a.m. on October 7, 2018.

**ADDRESSES:** The docket for this deviation, USCG-2018-0835, is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Judy K. Leung-Yee, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212-514-4336, email [Judy.K.Leung-Yee@uscg.mil](mailto:Judy.K.Leung-Yee@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The owner of the bridge, Consolidated Rail Corporation, requested a temporary deviation in order to replace four counterweight sheave assemblies on the west tower of the bridge.

The Hack-Freight Railroad Bridge across the Hackensack River, mile 3.1, at Jersey City, New Jersey is a vertical lift bridge with a vertical clearance of 11 feet at mean high water and 16 feet at mean low water in the closed position. The existing drawbridge operating regulation is listed at 33 CFR 117.723(c).

This temporary deviation will allow the Hack-Freight Railroad Bridge to remain in the closed position from 6 a.m. on September 30, 2018, to 6 a.m. on October 7, 2018. The waterway is transited by recreational and commercial vessels. Coordination with known waterway users has indicated no objection to the closure of the draw. Vessels able to pass through the bridge

in the closed position may do so at anytime. The bridge will not be able to open for emergencies. There is no immediate alternate route for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 21, 2018.

**C.J. Bisignano,***Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2018-21048 Filed 9-26-18; 8:45 am]

**BILLING CODE 9110-04-P****ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R08-OAR-2018-0608; FRL-9983-40-Region 8]

**Adequacy Determination for the Missoula PM<sub>10</sub> Limited Maintenance Plan for Transportation Conformity Purposes; State of Montana****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Adequacy determination.

**SUMMARY:** In this announcement, the Environmental Protection Agency (EPA) is notifying the public that the EPA has found the Missoula PM<sub>10</sub> National Ambient Air Quality Standard (NAAQS) Limited Maintenance Plan (LMP) adequate for transportation conformity purposes. As more fully explained in the Supplementary Information section of this notice, this finding will affect future transportation conformity determinations.

**DATES:** This finding is effective on October 12, 2018.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6479, or [russ.tim@epa.gov](mailto:russ.tim@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

Transportation conformity is required by section 176(c) of the Clean Air Act to ensure that federally funded highway and transit projects are consistent with the air quality goals established by the state implementation plan (SIP). The EPA's conformity rule provisions at 40 CFR part 93, subpart A, establish the criteria and procedures for determining whether transportation plans, programs and projects conform to the SIP. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the applicable NAAQS.<sup>1</sup>

The criteria by which the EPA determines whether a SIP revision's LMP<sup>2</sup> or motor vehicle emission budgets (MVEBs) are adequate for transportation conformity purposes are outlined at 40 CFR 93.118(e)(4), and the adequacy review process is described at 40 CFR 93.118(f)(1). We applied these criteria and followed this process in making the determinations announced in this notice.

This document is simply an announcement of findings that the EPA has already made, as described below.

The State of Montana submitted the Missoula PM<sub>10</sub> LMP<sup>3</sup> on August 1, 2016. As part of our adequacy review, we announced receipt of the Missoula PM<sub>10</sub> LMP and posted an announcement of availability on the EPA Office of Transportation and Air Quality's transportation conformity website <https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity>. The EPA requested public comments by May 30, 2018. We did not receive any comments. We sent a letter to the Montana Department of Environmental Quality on July 23, 2018, that stated that the submitted Missoula PM<sub>10</sub> LMP was adequate for transportation conformity purposes.

Following the effective date listed in the **DATES** section of this notice, the Missoula County-City Metropolitan Planning Organization, the Montana

<sup>1</sup> The applicable PM<sub>10</sub> NAAQS is found in 40 CFR part 50, section 50.6: "The level of the national primary and secondary 24-hour ambient air quality standards for particulate matter is 150 micrograms per cubic meter (µg/m<sup>3</sup>), 24-hour average concentration. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m<sup>3</sup>, as determined in accordance with appendix K to this part, is equal to or less than one."

<sup>2</sup> On August 9, 2001, EPA issued a guidance memorandum titled "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas." <https://www.epa.gov/sites/production/files/2016-06/documents/2001lmp-pm10.pdf>.

<sup>3</sup> Particulate matter less than or equal to 10 microns in diameter.

Department of Transportation, and the U.S. Department of Transportation are required to use the provisions of the Missoula PM<sub>10</sub> LMP for future transportation conformity determinations for projects in the Missoula PM<sub>10</sub> nonattainment area. Please refer to 40 CFR 81.327 for a description of the nonattainment area boundary. On the effective date of this adequacy determination, the previously-approved PM<sub>10</sub> MVEB of 16,119 pounds per day of PM<sub>10</sub><sup>4</sup> for the Missoula PM<sub>10</sub> NAAQS nonattainment area will no longer be applicable for transportation conformity purposes.

Please note that our adequacy review of the LMP for transportation conformity is separate from our future rulemaking action on the Missoula PM<sub>10</sub> redesignation request and LMP SIP revision and should not be used to prejudice our ultimate approval or disapproval of that SIP revision. Even if we find the Missoula PM<sub>10</sub> LMP adequate for transportation conformity purposes now, we may later find it necessary to disapprove the SIP revision. Should this situation arise, we would revisit our adequacy finding.

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

Dated: September 14, 2018.

**Douglas Benevento,**

*Regional Administrator, EPA Region 8.*

[FR Doc. 2018-20446 Filed 9-26-18; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2017-0502; FRL-9984-48-Region 3]

### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Permits for Construction and Major Modification of Major Stationary Sources for the Prevention of Significant Deterioration of Air Quality

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision pertains to West Virginia's Prevention of Significant Deterioration

(PSD) program. This action is being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on October 29, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2017-0502. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., 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 through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** David Talley, (215) 814-2117, or by email at [talley.david@epa.gov](mailto:talley.david@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 5, 2018 (83 FR 31348), EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, EPA proposed approval of a revision to the PSD regulations found at title 45, chapter 14 of the Code of State Rules (CSR) as a revision to the West Virginia SIP. The formal SIP revision was submitted by West Virginia Department of Environmental Protection (WVDEP) on behalf of the State of West Virginia on June 6, 2017.

WVDEP's June 6, 2017 SIP submittal included a number of revisions to West Virginia's PSD regulations under 45CSR14. The revisions were largely non-substantive and administrative in nature. However, as discussed in subsequent sections of this notice, WVDEP's SIP submittal also contained revisions to PSD provisions relating to the regulation of greenhouse gases (GHGs).

In a June 3, 2010 final rulemaking action, EPA promulgated regulations known as "the Tailoring Rule," which phased in permitting requirements for GHG emissions from stationary sources under the CAA PSD and title V permitting programs. See 75 FR 31514. For Step 1 of the Tailoring Rule, which began on January 2, 2011, PSD or title V requirements applied to sources of GHG emissions only if the sources were subject to PSD or title V "anyway" due to their emissions of non-GHG pollutants. These sources are referred to

as "anyway sources." Step 2 of the Tailoring Rule, which began on July 1, 2011, applied the PSD and title V permitting requirements under the CAA to sources that were classified as major, and, thus, required to obtain a permit, based solely on their potential GHG emissions. Step 2 also applied to modifications of otherwise major sources that required a PSD permit because they increased only GHGs above applicable levels in the EPA regulations.

On June 23, 2014, the United States Supreme Court, in *Utility Air Regulatory Group (UARG) v. Environmental Protection Agency*,<sup>1</sup> issued a decision addressing the Tailoring Rule and the application of PSD permitting requirements to GHG emissions. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). The Supreme Court decision effectively upheld PSD permitting requirements for GHG emissions under Step 1 of the Tailoring Rule for "anyway sources" and invalidated PSD permitting requirements for Step 2 sources.

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of the Tailoring Rule, but not the regulations that implement Step 1 of the Tailoring Rule.<sup>2</sup> The amended judgment preserves, without the need for additional rulemaking by the EPA, the application of the BACT requirement to GHG emissions from sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs (*i.e.*, the "anyway" sources). The D.C. Circuit's judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), "to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for

<sup>1</sup> See 134 S.Ct. 2427.

<sup>2</sup> *Coalition for Responsible Regulation v. EPA*, D.C. Cir., No. 09-1322, 06/26/20, judgment entered for No. 09-1322 on 04/10/2015.

<sup>4</sup> The PM<sub>10</sub> MVEB was originally derived from the motor vehicle source category of the emissions inventory for the Missoula PM<sub>10</sub> nonattainment area; see the EPA's SIP approvals of December 13, 1994 (59 FR 64133) and August 30, 1995 (60 FR 45051.)