

zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that the safety zone need not be enforced for the full duration stated in this notification he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: May 23, 2019.

**Joseph S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2019-11374 Filed 5-30-19; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2018-0722; FRL-9994-40-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Commercial Fuel Oil Sulfur Limits for Combustion Units in Philadelphia County

**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 Commonwealth of Pennsylvania (Pennsylvania). The revision updates Philadelphia County's portion of the Pennsylvania SIP, which includes regulations concerning sulfur content in fuel oil. Implementation of these provisions will reduce the amount of sulfur in fuel oils used in combustion units in Philadelphia County. EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on July 1, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2018-0722. All documents in the docket are listed on the <https://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 <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Erin Trouba, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2023. Ms. Trouba can also be reached via electronic mail at [trouba.erin@epa.gov](mailto:trouba.erin@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On March 19, 2019 (84 FR 9991), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of lower commercial fuel oil sulfur limits for combustion and sale in Philadelphia County into the Pennsylvania SIP. The formal SIP revision was submitted by the City of Philadelphia, Air Management Services (AMS) through the Pennsylvania Department of Environmental Protection (PADEP) on June 21, 2018. The SIP revision consists of an amendment to 40 CFR 52.2020(c)(3), the Philadelphia County portion of the SIP, in order to implement provisions for lower sulfur levels in commercial fuel oil in Philadelphia County.

##### II. Summary of SIP Revision and EPA Analysis

Through its June 2018 SIP revision submittal, Pennsylvania sought to revise its SIP by including amendments to Section 3-207 of the Air Management Code (AMC), as well as Sections I, II, and III of Air Management Regulation (AMR) III (Control of Emissions of Oxides and Sulfur Compounds). The revision lowers the maximum allowable sulfur content in number 2 and lighter fuel oils from 0.2 percent (%) by weight (2,000 parts per million (ppm)) to 0.0015% by weight (15 ppm) and lowers the maximum allowable sulfur content in number 4 fuel oils from 0.3% by weight (3,000 ppm) to 0.25% by weight (2,500 ppm).

The revision also lowers the permissible sulfur dioxide (SO<sub>2</sub>) emissions from the combustion of

number 4 fuel oils and lowers the sulfur oxides emission limit to 0.4 ppm for any 5-minute period when measured at ground level. The revision allows commercial fuel oil stored by the ultimate consumer at its facility prior to the applicable compliance date, July 1, 2015, to be used after that applicable compliance date, if the fuel oil met the applicable maximum allowable sulfur content at the time it was stored, provided that certain conditions are met. Also included in the revised provisions are exemptions for using noncompliant fuel oil beyond July 1, 2020 and an emergency conditions provision.

Other specific requirements of lower commercial fuel oil sulfur limits for combustion and sale in Philadelphia County and the rationale for EPA's proposed action are explained in the NPRM, which is available in the docket for this rulemaking located at <https://www.regulations.gov>, Docket ID Number EPA-R03-OAR-2018-0722. No adverse public comments were received on the NPRM. Two identical positive public comments were received.

##### III. Final Action

EPA is approving Pennsylvania's June 21, 2018 SIP submittal that lowers commercial fuel oil sulfur limits for combustion units in Philadelphia County as a revision to the Pennsylvania SIP. With this approval, EPA will incorporate amended AMC Section 3-207 and AMR III Sections I, II, and III into the Commonwealth of Pennsylvania's SIP.

##### IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of lower commercial fuel oil sulfur limits for combustion units in Philadelphia County discussed in Sections I and II of this action. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](https://www.regulations.gov) and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be

incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

**V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 CAA; 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.

**VI. 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 CAA, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by July 30, 2019. 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 regarding commercial fuel oil sulfur limits for combustion and sale in Philadelphia County 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 17, 2019.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- 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)(3) is amended by revising:
  - a. Under "Title 3-Air Management Code" an entry "Chapter 3-200"; and
  - b. Under "Regulation III", entries "Section I", "Section II", and "Section III".

The revisions read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*  
 (3)\* \* \*

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
<b>Title 3—Air Management Code</b>				
Chapter 3-200 ..	Prohibited Conduct .....	06/18/15	5/31/2019, Insert <b>Federal Register</b> citation].	Section 3-207 was amended to lower the allowable sulfur content in fuel oils in Philadelphia County.

<sup>1</sup> 62 FR 27968 (May 22, 1997).

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
*	*	*	*	*
<b>Regulation III—The Control of Emissions of Oxides and Sulfur Compounds</b>				
Section I .....	No Title [General Provisions] .....	11/25/15	5/31/2019, Insert <b>Federal Register</b> citation].	<b>Federal Reg-</b>
Section II .....	Control of Sulfur Compound Emissions.	11/25/15	5/31/2019, Insert <b>Federal Register</b> citation].	<b>Federal Reg-</b>
Section III .....	Control of Sulfur in Fuels .....	11/25/15	5/31/2019, Insert <b>Federal Register</b> citation].	<b>Federal Reg-</b>
*	*	*	*	*

[FR Doc. 2019-11171 Filed 5-30-19; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2007-1092; FRL-9994-65-Region 5]

**Air Plan Approval; Michigan; Permit To Install Public Hearing Provisions**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving certain changes to the Michigan State Implementation Plan (SIP). This action relates to changes to the Permit to Install requirements for public participation of permitting actions. Additionally, the action contains changes to the rule which address permit emission limits that are enforceable as a practical matter.

**DATES:** This final rule is effective on July 1, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2007-1092. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from

8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Constantine Blathras, Environmental Engineer, at (312) 886-0671 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0671, [Blathras.constantine@epa.gov](mailto:Blathras.constantine@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. State Submittal
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. Background**

Section 110(a)(2)(C) of the Clean Air Act requires that the SIP include a program to provide for the “regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved.” This includes a program for permitting construction and modification of both major and minor sources that the state deems necessary to protect air quality. The State of Michigan’s minor source permit to install rules are contained in Part 2 (Air Use Approval) of the Michigan Administrative Code. Changes to the Part 2 rules were submitted on November 12, 1993; May 16, 1996; April 3, 1998; September 2, 2003; March 24, 2009; and February 28, 2017.

Michigan originally submitted its Michigan R 336.1205 (rule 205) as a revision to its Part 2 SIP on May 16, 1996. The most recent version of rule 205 was submitted to EPA on March 24, 2009 and has a State effective date of

June 20, 2008. EPA published a proposed approval of all Part 2 changes, except rule 205, on August 15, 2017 (82 FR 38651). EPA took no action to approve rule 205 at that time. Most recently, EPA approved changes to the Part 2 rules (except rule 205) in a final approval dated August 31, 2018 (83 FR 44485). In this action, EPA is approving revisions to the SIP for Michigan rule 205 and 324.5511(3) of the Michigan Natural Resources and Environmental Protection Act. Rule 205 is titled “Permit to install; approval.” and is a section of the Part 2 air use approval rules of the Michigan Administrative Code that specifies the public participation requirements for issuance of air pollutant construction permits. Michigan Act 451, Part 55, section 324.5511(3) defines the permitting actions requiring public comment and public hearing opportunities.

**II. State Submittal**

(1) R 336.1205 (Rule 205) of Michigan’s Part 2 Air Permit Rules

Rule 205 requires permits to install which include limitations that restrict the potential to emit from a stationary source, process, or process equipment to a quantity below that which would otherwise constitute a major source or major modification under any part of the Part 2 air permit rules. Permits to install must contain adequate emission limits that are enforceable as a practical matter; with a consideration to the time-period, production, emission, usage and/or operational limits that restrict the source’s potential to emit in order to demonstrate compliance.

Michigan rule 205 describes the content and public participation process for the Michigan Department of Environmental Quality (MDEQ), as the permitting authority, to act on certain permits which need to be “federally enforceable” or enforceable as a practical matter. Additionally, the rule also prescribes these requirements for