

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. Add temporary § 165.T01–115 to read as follows:

**§ 165.T01–115. T E L Enterprises
Fireworks Display, Great South Bay off
Davis Park, N.Y.**

(a) *Location.* The safety zone includes all waters of Great South Bay within a 600 foot radius of the launch barge located in approximate position 40°41'17"N, 073°00'20"W (NAD 1983).

(b) *Effective date.* This section is effective on August 7, 1999 from 7:45 p.m. until 8:45 p.m. August 8, 1999, at the same times as the scheduled rain date for this event.

(c) *Regulations.* (1) The general regulations covering safety zones contained in § 165.23 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard Vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

P.K. Mitchell,

*Captain, Coast Guard, Captain of the Port,
Long Island Sound.*

[FR Doc. 99–17809 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–15–M

revisions concern regulations for coal handling and preparation facilities. New permitting, monitoring, reporting, and testing requirements are included for these facilities and new emission limits are included for facilities that are located in the Follansbee particulate matter nonattainment area. EPA is approving these revisions to West Virginia's regulation 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations" in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on September 13, 1999 without further notice, unless EPA receives adverse written comment by August 12, 1999. 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: Written comments should be mailed to Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, or by e-mail at knapp.ruth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1991, EPA received an attainment plan from West Virginia for the Follansbee PM–10 nonattainment area.¹ The plan consisted of several portions including bilateral consent orders between the State of West Virginia and six companies in the Follansbee area, emergency revisions to West Virginia Regulation 5 "To Prevent

and Control Air Pollution from the Operation of Coal Preparation Plants", and air quality modeling. EPA advised the State that the revisions to Regulation 5 were not approvable as a SIP revision because West Virginia's emergency rules, are by State law, temporary. On August 10, 1993, West Virginia submitted formal State Implementation Plan (SIP) revisions to EPA of the permanently adopted revisions to Regulation 5. The SIP revision provides new emission limits and operating practices for coal preparation and handling facilities in the Follansbee, West Virginia PM–10 nonattainment area and new permitting, monitoring, reporting and testing requirements for coal handling facilities statewide.

Summary of the SIP Revision

The revisions to Regulation 5 are scattered throughout the rule. The major changes to the rule are provisions for the following:

(1) Special limits on emissions from coal handling operations and coal preparation plants in the Follansbee PM–10 nonattainment area, including an emission limit of 0.001 pounds of particulate matter per ton of coal crushed or screened; a limit of 5% opacity from any crushing, screening, or conveying operation; and a plan to control fugitive dust from haul roads, pile areas, berms, and plant access roads;

(2) A requirement for the continuous measurement of exit gas temperature or scrubber pressure drop and water pressure at thermal drier units statewide; and

(3) Revisions to reporting and testing requirements, and provisions related to granting variances.

These regulations went into effect in the State of West Virginia in 1993. EPA is publishing this revision to West Virginia's Regulation 5 without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. 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 13, 1999 without further notice unless EPA receives adverse comment by August 12, 1999. 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.

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 52

[WV016–6010a; FRL–6372–3]

**Approval and Promulgation of Air
Quality Implementation Plans; West
Virginia; Approval of Revisions to Coal
Preparation Plants and Coal Handling
Operations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the West Virginia State Implementation Plan (SIP). The

¹ The Follansbee particulate matter nonattainment area is that part of Brooke County, West Virginia west of State Route 2, north of an eastward extension of the southern boundary of Steubenville Township, Ohio, and south of the Market Street Bridge. There is only one coal preparation facility in the Follansbee area, and it has been inactive for several years.

Any parties interested in commenting must do so at this time.

II. Final Action

EPA is approving the revisions to West Virginia Regulation 5 "To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Facilities". These revisions strengthen the State Implementation Plan by providing additional controls for particulate matter.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has 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 E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve

requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2). Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve the revisions to West Virginia regulation 45 CSR 5 must be filed in the United States Court of Appeals for the appropriate circuit by September 13, 1999. 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 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, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 29, 1999.

Thomas Voltaggio,

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 XX—West Virginia

2. Section 52.2520 is amended by adding paragraphs (c)(42) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(42) Revisions to the West Virginia Regulations for coal preparation and handling facilities 45CSR5 submitted on August 10, 1993 by the West Virginia Department of Commerce, Labor and Environmental Resources:

(i) Incorporation by reference.

(A) Letter of August 10, 1993 from the West Virginia Department of Commerce, Labor, and Environmental Resources transmitting revisions to West Virginia's regulation 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations".

(B) Revisions to West Virginia regulation 45CSR5 regarding coal preparation and handling plants specifically: Revisions to 45CSR5 which require specific emission limits on particulate matter emissions at coal preparation and handling facilities in the Follansbee PM10 nonattainment area, monitoring of thermal driers and control equipment statewide, revised permitting, testing and reporting requirements.

(ii) Additional Material—Remainder of the August 10, 1993 submittal on 45CSR5.

[FR Doc. 99-17626 Filed 7-12-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6376-5]

National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final rule amends the national emission standard for hazardous air pollutants (NESHAP) for halogenated solvent cleaning by: permanently exempting nonmajor (or "area") batch cold solvent cleaning machines that use halogenated solvent from the Federal operating permit program; and deferring Federal operating permit requirements until December 9, 1999 for all other nonmajor halogenated solvent cleaning machines. With this amendment, these sources will be treated by our Federal Operating Permits Program in the same way EPA allows them to be treated by State operating permit programs adopted under title V of the Clean Air Act (CAA). State programs are already allowed to exempt/defer such sources from their requirements for title V operating permits. Without today's amendment, sources located in areas that do not have State title V permit programs (such as Indian country) could be subject to more burdensome

requirements than may apply to sources located elsewhere. Today's action will reduce an undue regulatory burden on industry as well as on EPA's Regional Offices.

DATES: This rule takes effect on September 13, 1999, without further notice unless EPA receives adverse comment by August 12, 1999. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: *Comments.* If you have adverse comments on this action, you may submit them in writing (in duplicate, if possible) to Docket No. A-92-39 at the following address: Air and Radiation Docket and Information Center (MC-6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460. EPA requests that you send a separate copy of the comments to the contact person listed below at the same time that you submit comments to the docket.

Docket. Today's direct final rulemaking and other related materials are available for review in the docket. Copies may be obtained by request from the Air Docket by calling (202) 260-7548. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket, Room M-1500, Waterside Mall, 401 M Street SW, Washington, DC, 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information about the final rule, contact Candace Carraway (telephone 919-541-3189), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Drop 12, Research Triangle Park, North Carolina, 27711.

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

Entities Affected by This Action

Entities affected by this action are stationary air sources that are nonmajor halogenated solvent cleaning machines (typically known as "degreasers") that are (1) subject to subpart T of 40 CFR part 63, and (2) subject to the Federal Operating Permits Program rule at 40 CFR part 71. Examples of affected categories and entities are in the following table: