

does not require a Statement of Energy Effects under Executive Order 13211.

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for temporary safety zones of less than one week in duration.

### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Record Keeping 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(g), 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. A temporary § 165.T13-008 is added to read as follows:

#### § 165.T13-008 Safety Zones for fireworks events in the Captain of the Port Portland Zone.

(a) *Safety zones.* The following areas are designated safety zones:

(1) *City of Milwaukie Celebration Fireworks Display, Milwaukie, OR:*

(i) *Location.* All water of the Willamette River enclosed by a line connecting the following points: 45°26'41" N, 122°38'46" W; following the shoreline to 45°26'17" N, 122°38'36" W; then west to 45°26'17" N, 122°38'55" W; following the shoreline to 45°26'36" N, 122°38'50" W; then back to the point of origin.

(ii) *Enforcement period.* 10 p.m. to 10:30 p.m. on July 24, 2004.

(2) *Gladstone Celebration Fireworks Display, Gladstone, OR:*

(i) *Location.* All water of the Willamette River enclosed by a line connecting the following points: 45°22'29" N, 122°36'42" W; following the shoreline to 45°22'23" N, 122°36'23" W; then west to 45°22'14" N, 122°36'26" W; following the shoreline to 45°22'24" N, 122°36'44" W; then back to the point of origin.

(ii) *Enforcement period.* 10 p.m. to 10:30 p.m. on July 4, 2004.

(3) *Oaks Park July 4th Celebration, Portland, OR.*

(i) *Location.* All water of the Willamette River enclosed by a line connecting the following points: 45°28'26" N, 122°39'43" W; following the shoreline to 45°28'10" N, 122°39'54" W; then west to 45°28'41" N, 122°40'06" W; following the shoreline to 45°28'31" N, 122°40'01" W; then back to the point of origin.

(ii) *Enforcement period.* 9:45 p.m. to 10:30 p.m. on July 4, 2004.

(4) *Fort Vancouver 4th of July Celebration, Vancouver, WA.*

(i) *Location.* All water of the Columbia River enclosed by a line connecting the following points: 45°31'16" N, 122°40'18" W; following the shoreline to 45°36'55" N, 122°39'11" W; south to 45°35'28" N, 122°39'19" W; following the shoreline to 45°36'52" N, 122°40'32" W, then back to the point of origin.

(ii) *Enforcement period:* 10 p.m. to 10:50 p.m. on July 4, 2004.

(5) *St. Helens 4th of July, St. Helens, OR.*

(i) *Location.* All water of the Columbia River extending out to a 1200-foot radius from the barge centered at 45°51'57" N, 122°47'02" W.

(ii) *Enforcement period:* 10 p.m. to 10:30 p.m. on July 4, 2004.

(6) *East County 4th of July Fireworks, Gresham, OR.*

(i) *Location.* All water of the Columbia River enclosed by a line connecting the following points: 45°32'29" N, 122°47'32" W; following the shoreline to 45°33'45" N, 122°26'54" W; then south to 45°33'29" N, 122°26'37" W; following the shoreline to 45°33'29" N, 122°27'32" W; back to the point of origin.

(ii) *Enforcement period:* 10 p.m. (PDT) to 10:30 p.m. (PDT) on July 4, 2004.

(7) *City of Cascade Locks 4th of July, Cascade Locks, OR.*

(i) *Location.* All water of the Columbia River extending out to a 2000' radius from the launch site at 45°40'16" N, 122°53'38" W.

(ii) *Enforcement period:* 10 p.m. to 10:30 p.m. on July 4, 2004.

(8) *Arlington Chamber of Commerce Fireworks, Arlington, OR.*

(i) *Location.* All water of the Columbia River extending out to a 500-foot radius from the launch site at 45°43'23" N, 122°12'08" W.

(ii) *Enforcement period:* 10 p.m. to 10:20 p.m. on July 4, 2004.

(9) *Western Display 4th of July Party, Vancouver, WA.*

(i) *Location.* All water of the Columbia River extending out to a 500-foot radius from the launch site at 45°35'46" N, 122°32'22" W.

(ii) *Enforcement period:* 10 p.m. to 10:20 p.m. on July 4, 2004.

(10) *Ilwaco July 4th Committee Fireworks, Ilwaco, WA.*

(i) *Location.* All water of the Columbia River extending out to a 700-foot radius from the launch site at 46°18'17" N, 124°01'55" W.

(ii) *Enforcement period:* 10 p.m. to 10:30 p.m. on July 4, 2004.

(11) *Florence Chamber 4th of July, Florence, OR.*

(i) *Location.* All water of the Siuslaw River enclosed by a line connecting the following points: 43°57'58" N, 124°06'29" W; following the shoreline to 43°58'08" N, 124°05'42" W; then south to 43°57'53" N, 124°05'31" W; following the shoreline to 43°57'48" N, 124°06'29" W; back to the point of origin.

(ii) *Enforcement period:* 10 p.m. to 10:30 p.m. on July 4, 2004.

(b) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

Dated: June 25, 2004.

**Paul D. Jewell,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland, Oregon.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region 2 Docket No. NJ66-273, FRL-7776-2]

### Approval and Promulgation of Implementation Plans; New Jersey 1-hour Ozone Control Programs

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a request from New Jersey to revise its State Implementation Plan to incorporate revisions to Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds." These revisions relate to the control of volatile organic compounds from mobile equipment repair and refinishing operations, solvent cleaning operations and refueling of motor vehicles at gasoline service stations. The intended effect is to reduce the emissions of volatile organic compounds (VOC) and thereby reduce ozone concentrations in the lower atmosphere.

**DATES:** *Effective Date:* This rule will be effective August 2, 2004.

**ADDRESSES:** Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866.

New Jersey Department of Environmental Protection and Energy, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

**FOR FURTHER INFORMATION CONTACT:** Paul Truchan, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3711 or [truchan.paul@epa.gov](mailto:truchan.paul@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. What Action Is EPA Taking Today?**

EPA is approving a revision to New Jersey's ozone State Implementation Plan (SIP) submitted on June 4, 2003. This SIP incorporates amendments to Title 7, Chapter 27, "Subchapter 16 Control and Prohibition of Air Pollution from Volatile Organic Compounds" which was adopted on April 30, 2003. This adoption was published in the New Jersey Register on June 2, 2003 and became effective on June 29, 2003. New Jersey amended Subchapter 16 to include revisions to three control programs: Solvent cleaning operations, mobile equipment repair and refinishing operations, and gasoline transfer operations. The Subchapter 16 amendments are applicable to the entire State of New Jersey. The reader is referred to the proposed rulemaking (November 21, 2003, 68 FR 65646) for additional details.

##### **II. What Comments Were Received and How Has EPA Responded to Them?**

EPA received one comment on the proposal. The commenter stressed the importance of the training provisions for the mobile equipment repair and refinishing operations. The commenter further stated that enforcement of the training requirement is necessary and that the trainees should learn the course material and not just sit in a classroom.

Both EPA and the New Jersey Department of Environmental Protection recognize the importance and benefit of having a trained workforce. A trained workforce can minimize the emissions VOCs and maintain peak efficiency by operating and servicing equipment according to equipment manufacturers instructions. Accordingly, New Jersey specifically included the requirement

(Subchapter 16, 16.12(i)) in the amendments to the rule. The provision requires the owner or operator of the facility to ensure that "any one who applies coatings at the mobile equipment repair and refinishing facility has completed training in the proper use and handling of the following [equipment] in order to minimize the emission of air contaminants.\* \* \*" Since this will also become a requirement of the SIP, both the State and EPA will have enforcement authority. When New Jersey enforcement personnel inspect an affected facility they will check training records to insure workers operating the equipment and using solvents have been properly trained. Failure of equipment operators to comply with proper techniques would provide a basis for an enforcement citation. Failure to have a trained work force or keep accurate training records would be grounds for a citation and be put on a compliance plan to insure the provisions have been carried out. Therefore, EPA is confident that New Jersey intends to enforce this provision as it would any other provision in its adopted regulations. In addition, by approving this regulations into the SIP, EPA can also enforce these provisions.

##### **III. What Role Does This Rule Play in the Ozone SIP?**

When EPA evaluated New Jersey's 1-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the State's two severe nonattainment areas in order for the State to attain the 1-hour ozone standard with sufficient surety (December 16, 1999, 64 FR 70380). EPA provided that the States in the Ozone Transport Region could achieve these emission reductions through regional control programs. New Jersey decided to participate with the other States in the Northeast in an Ozone Transport Commission (OTC) regulatory development effort which developed six model control measures. This rulemaking incorporates two of the OTC model control measures into the SIP: solvent cleaning operations, and mobile equipment repair and refinishing operations. The third control measure included in this rulemaking tightens controls on gasoline transfer operations. The emission reductions from these control measures will provide a portion of the additional emission reductions needed to attain the 1-hour ozone standard. The emission reductions from these measures will most certainly be necessary to provide for attainment of the 8-hour ozone standard.

##### **IV. What Are EPA's Conclusions?**

EPA has evaluated the submitted amendments for consistency with EPA regulations, EPA policy and guidance. The proposed control measures exceed the reasonably available control technology (RACT) level controls that were previously approved for these source categories. These new control programs will strengthen the SIP by providing for additional VOC emission reductions. Accordingly, EPA is approving the Subchapter 16 revisions as adopted on April 30, 2003.

##### **V. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the

relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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**. 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 August 31, 2004. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 8, 2004.

**Jane M. Kenny**,  
Regional Administrator, Region 2.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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 FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(74) to read as follows:

#### § 52.1570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(74) Revisions to the State Implementation Plan submitted on June 4, 2003 and January 6, 2004 by the State of New Jersey Department of Environmental Protection that establishes control programs for mobile equipment repair and refinishing operations, solvent cleaning operations and refueling of motor vehicles at gasoline service stations.

(i) Incorporation by reference:

(A) Regulation Subchapter 16 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled "Control and Prohibition of Air Pollution from Volatile Organic Compounds," adopted on April 30, 2003 and effective on June 29, 2003.

(ii) Additional material:

(A) Letter from State of New Jersey Department of Environmental Protection dated June 4, 2003, requesting EPA approval of a revision to the Ozone SIP which contains amendments to the Subchapter 16 "Control and Prohibition of Air Pollution from Volatile Organic Compounds."

(B) Letter from State of New Jersey Department of Environmental Protection dated January 6, 2004 providing a compiled version of Subchapter 16 which include the amendments.

■ 3. Section 52.1605 is amended by revising the entry under Title 7, Chapter 27 for Subchapter 16 in the table to read as follows:

#### § 52.1605 EPA-approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * *	* * * * *	* * * * *	* * * * *
Title 7, Chapter 27			
* * * * *	* * * * *	* * * * *	* * * * *
Subchapter 16, Control and Prohibition of Air Pollution from Volatile Organic Compounds.	June 29, 2003 .....	July 2, 2004 [Insert FR page citation.]	
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