

(i) Incorporation by reference.

(A) Letter of October 26, 1995 from the Pennsylvania Department of Environmental Protection transmitting sections 6.7 (b), (c), (h) and section 17(2) of the Pennsylvania Air Pollution Control Act as amended on June 29, 1992.

(B) Sections 6.7 (b), (c), (h), and section 17(2) of the Pennsylvania Air Pollution Control Act, amended June 29, 1992 and effective on July 9, 1992.

[FR Doc. 95-30109 Filed 12-12-95; 8:45 am]

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40 CFR Part 52

[PA 081-4012c; FRL-5343-7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Interim Final Determination That Pennsylvania has Corrected the Deficiency in the Stage II Vapor Recovery Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's Federal Register, EPA has published a direct final rulemaking fully approving the Commonwealth of Pennsylvania's submittal of its Stage II Vapor Recovery requirements. The EPA has also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's proposed action, EPA will withdraw its direct final action and will consider any comments received before taking final action on the State's submittal. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on July 13, 1994. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment on this interim final determination as well as EPA's proposed approval of the State's submittal. If no comments are received on EPA's proposed approval of the State's submittal, the direct final action published in today's Federal Register will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final rule taking into consideration any comments received.

DATES: *Effective date.* December 13, 1995.

Comment date. Comments must be received by January 12, 1996.

ADDRESSES: Comments should be sent to Marcia L. Spink, Associate Director, Air Programs, (3AT00), Air, Radiation and Toxics Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19103. The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT:

Cynthia H. Stahl, (215) 597-9337, at the EPA Region III address above or via e-mail at stahl.cynthia@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1992, the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, submitted a Stage II vapor recovery regulation, Chapter 129.82, which EPA disapproved in a limited fashion on June 13, 1994 (59 FR 30302). The EPA's disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (Act) and a 24-month clock for promulgation of a Federal implementation plan under section 110(c)(1) of the Act. The State subsequently submitted a revised program on October 27, 1995, correcting the deficiencies in the original submittal. The EPA has taken direct final action on this submittal pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's Federal Register, EPA has issued a direct final full approval of the Commonwealth of Pennsylvania's submittal of its Stage II vapor recovery regulation. In addition, in the Proposed Rules section of today's Federal Register, EPA has proposed full approval of the State's submittal.

II. EPA Action

Based on the proposed full approval set forth in today's Federal Register, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiency that started the sanction clock and, therefore, EPA is taking this interim final action

finding that the State has corrected the disapproval deficiency, effective on publication. This action does not stop the sanction clock that started under section 179 for this area on July 13, 1994. However, this action will defer the application of the offset sanction and will defer the application of the highway sanction. See 59 FR 39832 (Aug. 4, 1994) to be codified at 40 CFR 52.31. If EPA's direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanction clock and will permanently lift any applied, stayed or deferred sanctions.

Today EPA is also providing the public with an opportunity to comment on this interim final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will take further action to disapprove the State's submittal and to find that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. In addition, the sanctions consequences described in the sanctions rule will also apply. See 59 FR 39832.

III. Administrative Requirements

Because EPA has preliminarily determined that the State has an approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.¹ 5 U.S.C. 553(b)(B). The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed and direct final action, is indicating that it is more likely than not that the State has corrected the deficiency that started the sanctions clock. Therefore, it is not in the public interest to initially apply sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a

¹ As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. In addition, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify 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 government entities with jurisdiction over populations of less than 50,000.

This action, pertaining to the interim final approval of corrections to the Pennsylvania Stage II vapor recovery regulation, temporarily relieves sources of an additional burden potentially placed on them by the sanction provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping, Ozone, and Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 27, 1995.

Stanley Laskowski,

Acting Regional Administrator.

[FR Doc. 95-30111 Filed 12-12-95; 8:45 am]

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40 CFR Part 140

[FRL-5345-4]

RIN 2040-AC51

Marine Sanitation Devices; Final Regulation to Establish Drinking Water Intake Zones in Two Sections of the Hudson River, New York State

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is establishing two Drinking Water Intake Zones in the Hudson River, in response to an application received by the New York State Department of Environmental Conservation (NYSDEC). Establishment of a Drinking Water Intake Zone serves to completely *prohibit the discharge of vessel sewage, treated or untreated*, to waters contained in that zone. Zone 1 is bounded by the northern confluence of the Mohawk River on the south and Lock 2 on the north. It is approximately 8 miles long. Zone 2 is bounded on the south by the Village of Roseton on the western shore and bounded on the north by the southern end of Houghtaling Island. Zone 2 is approximately 60 miles long.

EFFECTIVE DATES: The final rule will take effect April 11, 1996. In accordance with 40 CFR 23.2, these amendments to the regulation shall be considered issued for purposes of judicial review at 1 p.m. eastern time, two weeks after publication.

ADDRESSES: Patrick M. Durack, Chief, Water Permits and Compliance Branch (25th Floor), U.S. Environmental Protection Agency Region 2, 290 Broadway, New York, New York, 10007-1866.

FOR FURTHER INFORMATION CONTACT: Philip Sweeney, 212-637-3765.

SUPPLEMENTARY INFORMATION:

I. Background

In July 1992 the New York State Department of Environmental Conservation (NYSDEC) submitted an application for two reaches of the Hudson River to be designated by EPA as Drinking Water Intake Zones. Section 312(f)(4)(B) of Public Law 92-500, as amended by Public Law 95-217 and Public Law 100-4, (the "Clean Water Act"), states, "Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone." Region II requested that authority for taking action in response to this application be delegated from the Administrator to the Regional Administrator. That authority was delegated on November 16, 1992.

Zone 1 is in the Hudson River/Champlain Canal and is bounded by an east-west line through the most northern confluence of the Mohawk River which will be designated by the Troy-Waterford Bridge (126th Street Bridge) on the south and Lock 2 on the north. It is approximately 8 miles long. This zone is classified in the Official

Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 941.6, Item Number 1, as one Class A segment. This classification was assigned in February 1967. Class A is the standard given to waters of New York for the protection of a source of water supply for drinking, culinary, or food processing purposes. There is one drinking water intake located in Zone 1, authorized for 2.0 million gallons per day, which serves the Town and Village of Waterford, Saratoga County, New York. This portion of the Hudson River adjoins Saratoga County on the west and Rensselaer County on the east.

Zone 2 is also in the Hudson River and is bounded on the south by the Village of Roseton on the western shore and Low Point on the eastern shore in the vicinity of Chelsea, and on the north by the southern end of Houghtaling Island. This zone is classified in 6 NYCRR as two segments, both Class A. The northern segment, which stretches from the southern end of Houghtaling Island (at light #72) to the southern end of Esopus Island (at light #28), was classified as Class B in 1966 and reclassified by the State of New York as Class A in 1969. The southern segment of Zone 2 stretches from the southern end of Esopus Island (at light #28) to the line formed by Roseton on the west shore and Low Point on the east shore in the vicinity of Chelsea, New York. This southern segment of Zone 2 was classified on October 15, 1966 as Class A. There are six authorized drinking water intakes in Zone 2. They are listed below:

Community served	Authorized taking in million gallons per day
Rhinebeck Village and Hamlet of Rhinecliff	1.0
Hyde Park Fire and Water District, Town of Hyde Park	6.0
City and Town of Poughkeepsie	16.0
New York City, Chelsea Emergency Pump Station	100.0
Port Ewan Water District, Town of Esopus	1.0
Highland Water District	3.0

Authority to enforce the prohibition of vessel sewage discharges lies with the U.S. Coast Guard, which may by agreement utilize enforcement officers of the U.S. Environmental Protection Agency, other Federal agencies, or States, in accordance with §312(k) of the Clean Water Act.

Both the Federal and New York State governments will take a role in implementation and enforcement of the prohibition in the two drinking water