

**§ 165.1110 Security Zone: Coronado Bay Bridge, San Diego, CA.**

(a) *Location.* All navigable waters of San Diego Bay, from the surface to the sea floor, within 25 yards of all piers, abutments, fenders and pilings of the Coronado Bay Bridge. These security zones will not restrict the main navigational channel nor will it restrict vessels from transiting through the channel.

(b) *Regulations.* (1) Under § 165.33, entry into, transit through, loitering, or anchoring within any of these security zones by all persons and vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners seeking permission to transit through a security zone may request authorization to do so from Captain of the Port or his designated representative. The Coast Guard can be contacted on San Diego Bay via VHF-FM channel 16.

(2) Vessels may enter a security zone if it is necessary for safe navigation and circumstances do not allow sufficient time to obtain permission from the Captain of the Port.

Dated: December 16, 2003.

**Stephen P. Metruck,**

*Commander, U.S. Coast Guard, Captain of the Port, San Diego.*

[FR Doc. 04-1058 Filed 1-15-04; 8:45 am]

BILLING CODE 4910-15-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[Region 2 Docket No. NY67-272, FRL-7611-4]

**Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision; 1-Hour Ozone Control Program**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to title 6 of the New York Codes, Rules and Regulations, Part 205, "Architectural and Industrial Maintenance Coatings." This SIP revision consists of a control measure needed to meet the shortfall emissions reduction identified by EPA in New York's 1-hour ozone attainment demonstration SIP. The intended effect

of this action is to approve a control strategy required by New York's SIP which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

**DATES:** Comments must be received on or before February 17, 2004.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Electronic comments could be sent either to [Werner.Raymond@epa.gov](mailto:Werner.Raymond@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. Please follow the on-line instructions for submitting comments.

A copy of the New York's submittal is 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 York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

**FOR FURTHER INFORMATION CONTACT:** Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3381 or [Wieber.Kirk@epa.gov](mailto:Wieber.Kirk@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. What Is Required by the Clean Air Act and How Does It Apply to New York?**

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas classified as nonattainment for ozone and when these submissions and requirements are to be submitted to EPA by the states. The specific requirements vary depending upon the severity of the ozone problem. The New York—Northern New Jersey—Long Island area is classified as a severe ozone nonattainment area. Under section 182, severe ozone nonattainment areas were required to submit demonstrations of how they would attain the 1-hour standard. On December 16, 1999 (64 FR 70364), EPA proposed approval of New

York's 1-hour ozone attainment demonstration SIP for the New York—Northern New Jersey—Long Island nonattainment area. In that rulemaking, EPA identified an emission reduction shortfall associated with New York's 1-hour ozone attainment demonstration SIP, and required New York to address the shortfall. In a related matter, the Ozone Transport Commission (OTC) developed six model rules which provided control measures for a number of source categories and estimated emission reduction benefits from implementing these model rules. These model rules were designed for use by states in developing their own regulations to achieve additional emission reductions to close emission shortfalls.

On February 4, 2002 (67 FR 5170), EPA approved New York's 1-hour ozone attainment demonstration SIP. This approval included an enforceable commitment submitted by New York to adopt additional control measures to close the shortfall identified by EPA for attainment of the 1-hour ozone standard.

**II. What Was Included in New York's Submittal?**

On November 4, 2003 and supplemented on November 21, 2003, Carl Johnson, Deputy Commissioner, New York State Department of Environmental Conservation (NYSDEC), submitted to EPA a revision to the SIP which included revisions to title 6 of the New York Codes, Rules and Regulations (NYCRR), Part 205, "Architectural and Industrial Maintenance Coatings." The revisions to part 205 will provide volatile organic compound (VOC) emission reductions to address, in part, the shortfall identified by EPA. New York used the OTC model rule as a guideline to develop part 205.

**A. What Do the Revisions to Part 205, "Architectural and Industrial Maintenance Coatings" Consist of?**

The revisions to part 205 include VOC content limits for 52 coating categories. Revised part 205 establishes that no person, within the State of New York, shall manufacture, blend or repackage for sale, supply, sell, or offer for sale, or solicit for application or apply any architectural coating manufactured on or after January 1, 2005 which contains VOCs in excess of the limits specified in part 205 for those coatings. Part 205 includes specific exemptions, as well as certification and product labeling requirements, recordkeeping and reporting requirements, test methods and procedures, and compliance

flexibility. Revised part 205 allows small coatings manufacturers to request a limited exemption to the VOC content limits prescribed in part 205. This request must be submitted to NYSDEC and include a demonstration of the inability to produce coatings that meet the VOC content limits based on economic and/or technical feasibility. Limited exemptions for small coatings manufacturers that are approved by NYSDEC must be submitted to EPA as SIP revisions, as required by part 205.

### III. What Is EPA's Conclusion?

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA has determined that the proposed revisions made to part 205, entitled, "Architectural and Industrial Maintenance Coatings" meet the SIP revision requirements of the Act.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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.*). This rule proposes to approve pre-existing requirements under state law, does not impose any additional enforceable duty beyond that required by state law, and does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This proposed 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 proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This proposed 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 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 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 proposed 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.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 7, 2004.

**Kathleen Callahan,**

*Acting Regional Administrator, Region 2.*

[FR Doc. 04-1044 Filed 1-15-04; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 70

[CA 111-OPPb; FRL-7611-1]

#### Clean Air Act Proposed Full Approval of the Title V Operating Permit Program for Antelope Valley Air Pollution Control District in California

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to fully approve the operating permit program submitted by the California Air Resources Board (CARB) on behalf of Antelope Valley Air Pollution Control District (Antelope Valley APCD or the District). The operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction. EPA granted final interim approval to the District's operating permit program on December 19, 2000 (65 FR 79314). Of the three deficiencies noted by EPA, two were corrected by Antelope Valley APCD in a timely manner. The third deficiency was resolved on September 22, 2003, when the Governor of California signed SB 700, revising State law by removing the agricultural permitting exemption. Though interim approval of the District's operating permit program expired on January 21, 2003, and EPA implemented a federal operating permit program for Antelope Valley APCD, all three deficiencies are now resolved. Therefore, this action proposes full approval of the District's operating permit program.

**DATES:** Comments on this proposal must be received by February 17, 2004.

**ADDRESSES:** Written comments on this proposal may be submitted either by mail or electronically. By mail, comments should be addressed to Gerardo Rios, Permits Office Chief, Air Division (AIR-3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. Electronically, comments should be sent by e-mail to [rios.gerardo@epa.gov](mailto:rios.gerardo@epa.gov), or submitted at <http://www.regulations.gov>.

You can inspect copies of the program submittals, and other supporting documentation relevant to this action, at our Region IX office during normal business hours by appointment.

**FOR FURTHER INFORMATION CONTACT:** Gerardo Rios, EPA Region IX, (415) 972-3974, [rios.gerardo@epa.gov](mailto:rios.gerardo@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the District's operating permit program. In the Rules and Regulations section of this **Federal Register**, we are approving the program in a direct final action without prior proposal because we believe the revisions made to the program to resolve the interim approval deficiencies are noncontroversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a