

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

4. The authority citation for Part 817 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 817.49 [Amended]

5. Amend § 817.49 as follows:

a. In paragraph (a)(1), the words "Room 660, 800 North Capitol Street" are revised to read "1951 Constitution Avenue, NW."

b. In paragraph (a)(9), the references to "(a)(8)(i)" and "(a)(8)(ii)" are revised to read "(a)(9)(i)" and "(a)(9)(ii)," respectively.

c. In paragraph (a)(9)(ii), the reference to "(a)(8)" is revised to read "(a)(9)."

d. In paragraph (a)(11), the references to "(a)(10)(i)" and "(a)(10)(iv)" are revised to read "(a)(11)(i)" and "(a)(11)(iv)," respectively.

e. In paragraph (a)(11)(ii), the references to "(a)(10)(i)" and "(a)(10)(iv)" are revised to read "(a)(11)(i)" and "(a)(11)(iv)," respectively.

f. In paragraph (c)(2), the reference to "(a)(8)(i)" is revised to read "(a)(9)(i)."

[FR Doc. 01-6105 Filed 3-9-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA-01-082-7212a; A-1-FRL-6931-3]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Amendment to the Massachusetts Port Authority/Logan Airport Parking Freeze and City of Boston/East Boston Parking Freeze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes a state process to allow the transfer of parking spaces from the East Boston Parking Freeze to the Logan Parking Freeze provided the total Logan Parking Freeze inventory number remains at or below 21,790 parking spaces. This action is being taken under the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on April 11, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for

public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M-1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and Planning and Evaluation Division, Bureau of Waste Prevention, Massachusetts Department of Environmental Protection, One Winter Street, 9th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, (617) 918-1668 or e-mail Cooke.donald@epa.gov.

SUPPLEMENTARY INFORMATION: On November 27, 2000 (65 FR 70676-70678), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. The NPR proposed approval of amendments to the Massachusetts Port Authority (Massport)/Logan Airport Parking Freeze and City of Boston/East Boston Parking Freeze. The revisions allows the Commonwealth to automatically approve the transfer of parking spaces from the East Boston Parking Freeze to the Logan Parking Freeze provided the total parking space inventory number for the Logan Parking Freeze remains at or below 21,790 parking spaces. Future modifications in the parking freeze inventories for the Logan Airport and East Boston Parking Freezes will be regulated by the Commonwealth's revisions to Massachusetts State Regulations 310 CMR 7.30 and 310 CMR 7.31. The formal SIP revision was submitted by Massachusetts on December 8, 2000 and December 26, 2000.

Originally, Massachusetts requested that EPA parallel process this SIP revision. In accordance with this process, EPA held a thirty day comment period which overlapped the Commonwealth's public participation period. During the Commonwealth's comment period, two comments were submitted to the Massachusetts Department of Environmental Protection (MA DEP) from Massport and from EPA-New England. Massport's comment provided substitution of the language in 310 CMR 7.30(5)(b) which enables MA DEP to keep an up-to-date administrative record of the Logan and East Boston Parking Freeze inventories. EPA-New England's comment addressed public access to information on the number of MA DEP-certified parking spaces in the Logan Airport and East Boston Parking Freeze areas. MA DEP has made a commitment to make these

parking freeze inventory numbers available on its web site (<http://www.magnet.state.ma.us/dep/dephome.htm>) and will also encourage Massport and the City of Boston to do the same.

Other specific requirements of Massport/Logan Airport Parking Freeze and City of Boston/East Boston Parking Freeze, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received by EPA on the NPR.

Final Action

EPA is approving the modifications to Massachusetts State Regulations 310 CMR 7.30 "Massport/Logan Airport Parking Freeze" and 310 CMR 7.31 "City of Boston/East Boston Parking Freeze" as revisions to the Massachusetts SIP.

Administrative Requirements

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. 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 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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 May 11, 2001. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 28, 2000.

Mindy S. Lubber,

Regional Administrator, EPA-New England.

Part 52 of 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 W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(130) to read as follows:

§ 52.1120 Identification of plan.

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(c) * * *

(130) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on December 8, 2000 and December 26, 2000.

(i) Incorporation by reference.

(A) Massachusetts State Regulation 310 CMR 7.30 "Massport/Logan Airport Parking Freeze," effective in the Commonwealth of Massachusetts on December 22, 2000.

(B) Massachusetts State Regulation 310 CMR 7.31 "City of Boston/East Boston Parking Freeze," effective in the Commonwealth of Massachusetts on December 22, 2000.

(ii) Additional materials.

(A) Letter from the Massachusetts Department of Environmental Protection dated December 8, 2000 submitting a revision to the Massachusetts State Implementation Plan.

(B) Letter from the Massachusetts Department of Environmental Protection dated December 26, 2000 submitting the final state certified copies of State regulations 310 CMR 7.30 "Massport/Logan Airport Parking Freeze" and 310 CMR 7.31 "City of Boston/East Boston Parking Freeze."

3. In § 52.1167, Table 52.1167 is amended by revising entries "310 CMR 7.30 Massport/Logan Airport Parking Freeze" and "310 CMR 7.31 City of Boston/East Boston Parking Freeze" to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

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TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
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310 CMR 7.30.	Massport/Logan Airport Parking Freeze.	12/26/00	March 12, 2001	[Insert <i>FR</i> citation from published date].	130	Applies to the parking of motor vehicles on Massport property.
310 CMR 7.31.	City of Boston/East Boston Parking Freeze.	12/26/00	March 12, 2001	[Insert <i>FR</i> citation from published date].	130	Applies to the parking of motor vehicles within the area of East Boston.
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[FR Doc. 01-5854 Filed 3-9-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6882-2]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of Washington; Puget Sound Clean Air Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA), the State of Washington Department of Ecology (Ecology) submitted a request on behalf of the Puget Sound Clean Air Agency (Puget Sound Clean Air) for approval to implement and enforce Puget Sound Clean Air's Regulation III, section 3.03, Perchloroethylene Dry Cleaners in place of federal National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities ("dry cleaning NESHAP"), as it applies to area sources. EPA has reviewed this request and found that it satisfies the requirements necessary to qualify for approval. Thus, EPA is hereby granting Puget Sound Clean Air the authority to implement and enforce its Perchloroethylene Dry Cleaners regulation in place of the federal dry cleaning NESHAP, for area sources under Puget Sound Clean Air's jurisdiction. This approval makes Puget Sound Clean Air's rules federally enforceable and reduces the burden on area sources within Puget Sound Clean Air's jurisdiction such that they will only have one rule with which they must comply. Major sources remain subject to the federal dry cleaning NESHAP, as adopted into Puget Sound Clean Air Regulation III, Section 2.02.

DATES: This action will be effective on May 11, 2001 without further notice, unless EPA receives relevant adverse comments by April 11, 2001. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 11, 2001.

ADDRESSES: Written comments should be mailed concurrently to the addresses below:

Doug Hardesty, U.S. Environmental Protection Agency, Region X, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, WA, 98101.

Dennis McLerran, Director, Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101.

Copies of the requests for approval are available for public inspection at EPA's Region X office during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Doug Hardesty, US EPA, Region X (OAQ-107), 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553-6641.

SUPPLEMENTARY INFORMATION:

This Supplementary Information section is organized as follows:

- I. Background and Purpose
- II. EPA Evaluation and Action
 - A. Puget Sound Clean Air's Dry Cleaning Rule
 - 1. Classification of Sources
 - 2. Applicability of Major Sources
 - 3. New Facilities Constructed After 12/09/91
 - 4. Technical Reference for Definitions
 - 5. Washer Shall Not Share Refrigerated Condensers with Any Other Equipment
 - 6. Put Perc Into Solvent Tank or Container with "No Perceptible Leaks"
 - 7. Dry Cleaning System Inspection
 - 8. Conditions for Refrigerated Condensers and Carbon Absorbers That are Performing Out of Parameter Limits
 - 9. Use of Colorimetric Tubes
 - 10. Maintain Records for at Least 5 Years
 - 11. On-site Design Specs and Operating Manuals for Each System
 - 12. Authority to Determine Equivalent Emission Control Technology for Dry Cleaning Facilities
 - B. EPA's Action
 - C. Puget Sound Clean Air's Authorities to Implement and Enforce Section 112 Standards
 - 1. Penalty Authorities
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 - D. Effect of EPA's Action on Tribal Lands
- III. Opportunity for Public Comment
- IV. Summary of EPA's Action
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I. Background and Purpose

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 federal rules, emission standards, or requirements. The federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (*see* 59 FR 62262, November 26, 1993). Under these regulations, a local air pollution control agency has the option to request EPA's approval to substitute a local rule for the applicable federal rule (i.e., the federal National Emission Standards for Hazardous Air Pollutants (NESHAP)).

Upon approval, the local agency is given the authority to implement and enforce its rule in place of the NESHAP. To receive EPA approval using this "rule substitution" option, the requirements of 40 CFR 63.91 and 63.93 must be met.

On December 1, 1998, (*see* 63 FR 66054), EPA promulgated direct final approval of the State of Washington Department of Ecology's (Ecology) request, on behalf of the Puget Sound Clean Air Agency¹ (Puget Sound Clean Air), for delegation of authority to implement and enforce certain 40 CFR parts 61 and 63 NESHAP rules, as they apply to both part 70 and non-part 70 sources (i.e., "area sources"). Ecology had submitted a request on behalf of Puget Sound Clean Air for approval of a rule adjustment for 40 CFR part 63, subpart M (dry cleaning NESHAP). The original request was dated January 16, 1997, with a correction letter dated September 4, 1997. EPA did not address this request in the December 1, 1998, rulemaking because EPA anticipated that approval of the requested rule adjustments would require a more detailed review under 40 CFR 63.92, and decided to address Puget Sound Clean Air's request for rule adjustments in a separate notice. After completing its review of Puget Sound Clean Air's request, EPA has determined that Puget Sound Clean Air's request does not qualify as a rule adjustment under 40 CFR 63.92. Instead, the request shall be treated as a request for a rule substitution as defined in 40 CFR 63.93. Therefore, EPA is acting on this request as a rule substitution according to 40 CFR 63.93.

II. EPA Evaluation and Action

A. Puget Sound Clean Air's Dry Cleaning Rule

Puget Sound Clean Air's dry cleaning rule differs in several ways from the federal dry cleaning NESHAP. Many of these differences make Puget Sound Clean Air's regulations more stringent than the federal NESHAP. However, some of the provisions of Puget Sound Clean Air's dry cleaning regulations require further clarification to explain how they are at least equivalent to the federal dry cleaning NESHAP. In a letter dated June 9, 2000, Puget Sound Clean Air committed to interpreting and implementing its dry cleaning rule consistent with the explanations provided in this section so that its rule

¹ Puget Sound Clean Air was formerly known as the Puget Sound Air Pollution Control Agency (PSAPCA). Federal Register rules that were published prior to January 2000 regarding this agency have used the PSAPCA name.