

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

[PA159-4201a; FRL-7448-7]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to the Air Resource Regulations****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The revision changes portions of Pennsylvania's air resource regulations. Specifically, today's action approves revised definitions related to "major modification," "modification," "potential to emit," "responsible official" and "secondary emissions" as conforming to the Federal definitions of these terms. The changes will make Pennsylvania's regulations consistent with Federal requirements. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on April 28, 2003 without further notice, unless EPA receives adverse written comment by March 27, 2003. 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, Permits and Technical Assessment Branch, Air Protection Division, Mail Code 3AP11, 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Michael I. Ioff, P.E., (215) 814-2166, or by e-mail at [ioff.mike@epa.gov](mailto:ioff.mike@epa.gov). Please note that while questions may be posed

via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

**SUPPLEMENTARY INFORMATION:****I. Background**

On March 6, 2000, PADEP submitted a formal revision to the Pennsylvania State Implementation Plan (SIP). The SIP revision consists of changes to Pennsylvania's air resource regulations.

**II. Summary of SIP Revision**

The changes to Chapter 121, section 121.1, relating to definitions, modify the definitions of "major modification," "modification," "potential to emit," "responsible official" and "secondary emissions" to conform with the Federal definitions of these terms. In addition, the revised definition of "major modification" continues to remain more stringent than the corresponding Federal definition because it does not recognize the exclusion for combustion of municipal solid waste at steam generating units included in the Federal definition of "major modification." Notwithstanding this particular minor deviation from the corresponding Federal definition, the changes approved by today's action make the definitions consistent with Federal definitions of these terms promulgated under the CAA.

**III. Final Action**

EPA is approving the revisions to the Commonwealth of Pennsylvania's air resource regulations submitted by PADEP on March 6, 2000. The revisions amend portions of Chapter 121, General Provisions, Section 121.1, Definitions. EPA is publishing this rule 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 April 28, 2003 without further notice unless EPA receives adverse comment by March 27, 2003. 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. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of

this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**IV. Statutory and Executive Order Reviews****A. General 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. 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.*).

#### *B. 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).

#### *C. Petitions for Judicial Review*

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 April 28, 2003. 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 approving the revisions to Pennsylvania's air resource regulations 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 30, 2003.

**Donald S. Welsh,**

*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 NN—Pennsylvania**

2. Section 52.2020 is amended by adding paragraph (c)(197) to read as follows:

#### **§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(197) Revisions to the Commonwealth of Pennsylvania Regulations pertaining to the Pennsylvania's air resource regulations submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting revisions to the Commonwealth's Regulations pertaining to the Pennsylvania's air resource regulations.

(B) Revisions to 25 PA Code, Part I, Subpart C, Article III, effective December 27, 1997. Revisions to Chapter 121, General Provisions, Section 121.1, definitions for major modification, modification, potential to emit, responsible official and secondary emissions.

(ii) Additional Material—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(197)(i) of this section.

[FR Doc. 03-4256 Filed 2-24-03; 8:45 am]

**BILLING CODE 6560-50-P**

#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Part 73**

[DA 03-190; MM Docket No. 01-295; RM-10305; RM-10381]

#### **Radio Broadcasting Services; Jayton, TX**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document denies a petition for rule making filed at the

request of Linda Crawford, proposing the allotment of FM Channel 231A to Jayton, Texas (RM-10305). See 66 FR 53755, October 24, 2001. In response to a counterproposal filed by Robert Fabian (RM-10381), this document allots Channel 231C2 to Jayton, Texas, as that community's first local aural transmission service. Our determination was premised on Commission policy which is to allot the highest class channel requested to a community that complies with the technical requirements of the Rules. Coordinates used for Channel 231C2 at Jayton, Texas, are 33-15-35 NL and 100-40-08 WL. With this action, this docketed proceeding is terminated.

**DATES:** Effective March 24, 2003. A filing window for Channel 231C2 at Jayton, Texas, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01-295, adopted February 5, 2003, and released February 7, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893.

#### **List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### **PART 73—RADIO BROADCAST SERVICES**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### **§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Jayton, Channel 231C2.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03-4366 Filed 2-24-03; 8:45 am]

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