

electrical transformer and switchboard. This temporary deviation has been coordinated with waterway users. There are no scheduled river boat cruises or anticipated levee maintenance during this deviation period. No objections to the proposed temporary deviation were raised.

Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time.

In the event of an emergency the drawspan can be opened with 4 hours advance notice.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 31, 2008.

**C.E. Bone,**

*Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.*

[FR Doc. E8-2857 Filed 2-14-08; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2006-0641; A-1-FRL-8527-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Massachusetts. The SIP revision consists of technical revisions to Massachusetts regulation 310 CMR 7.38, "Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District." The amendments better define the emissions monitoring techniques for various types of tunnel ventilation systems, and provide flexibility in emission monitoring requirements. This action is being taken in accordance with the Clean Air Act.

**DATES:** This direct final rule will be effective April 15, 2008, unless EPA receives adverse comments by March 17, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the

**Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2006-0641 by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax*: (617) 918-0047.

4. *Mail*: "Docket Identification Number EPA-R01-OAR-2006-0641," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

5. *Hand Delivery or Courier*. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R01-OAR-2006-0641. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov*, or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be

able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition to the publicly available docket materials available for inspection electronically in the Federal Docket Management System at *www.regulations.gov*, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section of this **Federal Register**, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency; Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1668, fax number (617) 918-0668, e-mail [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose.
- II. Addition of Emissions Monitoring Techniques for Longitudinal Ventilation.
- III. New Requirement for an Air Emissions Monitoring Protocol.

## IV. Final Action

## V. Statutory and Executive Order Reviews

**I. Background and Purpose**

On July 12, 2006, the State of Massachusetts submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of technical revisions to 310 CMR 7.38, "Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District." The technical revisions apply to the emissions monitoring section of the regulation at 310 CMR 7.38(8)(a) and define the emission monitoring requirements for systems that use longitudinal ventilation, as well as add the requirement for an "Air Emissions Monitoring Protocol." A new subsection 310 CMR 7.38(1)(b) requires any tunnel ventilation system subject to a Federal New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants to operate in compliance with those standards. A new section, 310 CMR 7.38(10), "Removal of Air Pollution Control and Monitoring Equipment," has been added to prohibit removal of air pollution control equipment, or monitoring equipment which has been installed in accordance with 310 CMR 7.38. In addition to the technical revisions, typographical errors are also being corrected in the existing regulation.

The Certification of Tunnel Ventilation Systems in the Metropolitan Air Pollution Control District regulation, 310 CMR 7.38, was promulgated on January 18, 1991 and applies to the construction and operation of any tunnel ventilation system for highway projects constructed after January 1, 1991. On October 8, 1992, EPA approved 310 CMR 7.38 as a revision to the Massachusetts SIP (57 FR 46310). In the final rule, EPA agreed with Massachusetts Department of Environmental Protection (MA DEP) that tunnel ventilation systems are not stationary sources subject to Prevention of Significant Deterioration (PSD) or to New Source Review (NSR) permitting requirements of the Clean Air Act (CAA), nor to Massachusetts' Plan Approval and Emissions Limitations regulation for stationary sources, 310 CMR 7.02.

The purpose of the Certification of Tunnel Ventilation Systems regulation is to require certification that tunnel ventilation systems for highway projects in the Metropolitan Boston Air Pollution Control District (defined in 310 CMR 7.00) meet certain air quality requirements, thereby protecting public health and the environment. The

regulation requires an initial, "preconstruction" certification, an operation certification (required 12–15 months after a project becomes fully operational), and re-certification every five years. In accordance with 310 CMR 7.38(2), the proponent must certify that the project will not: (a) Cause or exacerbate a violation of any National Ambient Air Quality Standard as set forth at 40 CFR part 50, or a Massachusetts Ambient Air Quality Standard as set forth at 310 CMR 6.00; or (b) cause or exacerbate a violation of the MA DEP's one hour ambient NO<sub>2</sub> guideline of 320 µg/m<sup>3</sup>; or (c) result in an actual or projected increase in the total amount of non-methane hydrocarbons measured within the project area when compared with the no-build alternative.

With this certification process approved as a SIP element, approval of individual certifications or conditions which require written approval by MA DEP will not require SIP revisions. This concept is included in the existing SIP-approved rule, and the recent revisions do not change this previously established process.

**II. Addition of Emissions Monitoring Techniques for Longitudinal Ventilation**

During the late 1980s when the CA/T Project was initially planning and designing the ventilation system, the only Federal Highway Administration (FHWA) authorized tunnel ventilation system was the traditional "full transverse ventilation." Therefore, when 310 CMR 7.38 was promulgated in 1991, the emissions monitoring requirements were based on full transverse ventilation technology. In 1995, FHWA issued a memorandum entitled "Mechanical Ventilation in Road Tunnels using Jet Fans" authorizing applicable projects to use longitudinal ventilation with jet fan technology. The availability of this additional ventilation technology was neither anticipated nor provided for in 310 CMR 7.38(8).

Following the FHWA authorization memo, the Central Artery/Third Harbor Tunnel (CA/T) project studied the supplementary use of longitudinal ventilation at several exit ramps as a cost saving measure. The CA/T Project subsequently filed a Notice of Project Change, and implemented longitudinal ventilation at eight exit ramps. Although longitudinal ventilation was approved for use on the CA/T Project, the resulting emission impacts at the eight exit ramp portals cannot be monitored using 40 CFR part 60 Continuous Emissions Monitoring (CEM) methods because those methods are designed to

measure emissions from stacks, not exit ramp portals. The revised subsection 7.38(8)(a) specifically requires emissions monitoring and recording equipment in tunnel roadway exit portals that utilize longitudinal ventilation.

The revisions to the Certification of Tunnel Ventilation Systems regulation contain a revised set of allowable techniques and emissions monitoring approaches that incorporate elements of 40 CFR part 58—Ambient Air Quality Surveillance, 40 CFR part 60—Standards of Performance for New Stationary Sources, 40 CFR part 75—Continuous Emission Monitoring, as well as statistical analysis, computer modeling, and innovative technologies. This "hybrid" approach to emission monitoring, which includes elements of ambient air quality monitoring and continuous emission monitoring, will provide more accurate monitoring of ambient emissions within the portal area environment which could not be conducted with the original stack monitoring approach under 40 CFR part 60, appendix B—Performance Specifications.

**III. New Requirement for an Air Emissions Monitoring Protocol**

MA DEP has also revised the emissions monitoring requirements at 310 CMR 7.38(8)(a) to require that any person who constructs and operates a tunnel ventilation system which is subject to the requirements of 310 CMR 7.38 shall, prior to commencing operation of the tunnel ventilation system or opening the project roadway for public use, develop and submit to the Department for review and approval an "Air Emissions Monitoring Protocol." This subsection requires that all emissions monitoring and recording equipment be installed and operated in accordance with the approved protocol. Lastly, this subsection allows the "Air Emissions Monitoring Protocol" to be modified with prior written approval of the Department. This allows flexibility so that as technological advances occur in contaminant and emissions monitoring, MA DEP will be able to modify the monitoring procedures without necessarily having to complete a regulatory revision process. Therefore, the regulation allows affected projects to periodically modify or update their air emission monitoring protocol with written approval of MA DEP.

**IV. Final Action**

EPA has reviewed the revised rule and has found that it is consistent with requirements of the Clean Air Act. EPA is approving this rule because it will

improve emission monitoring techniques, allowing the state greater flexibility to assess and quantify emissions, for the roadway tunnel ventilation systems in the Boston Metropolitan Air Control District. EPA is approving Massachusetts amendments to 310 CMR 7.38, entitled "Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District," and incorporating this revised rule into the Massachusetts SIP. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective April 15, 2008 without further notice unless the Agency receives relevant adverse comments by March 17, 2008.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 15, 2008 and no further action will be taken on the proposed rule. 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.

## 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), 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 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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 April 15, 2008. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 1, 2008.

**Ira W. Leighton,**

*Acting 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)(134) to read as follows:

**§ 52.1120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
 (134) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on July 12, 2006.

(i) Incorporation by reference.

(A) Massachusetts Regulation 310 CMR 7.38, entitled "Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution

Control District," effective in the Commonwealth of Massachusetts on December 30, 2005.

(B) Massachusetts Regulation Filing, dated December 13, 2005, amending 310 CMR 7.38 entitled "Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District."

(ii) Additional materials.

(A) Letter from the Massachusetts Department of Environmental Protection dated July 12, 2006, submitting a

revision to the Massachusetts State Implementation Plan.

■ 3. In § 52.1167, Table 52.1167 is amended by adding two new citations to the existing entry for 310 CMR 7.38 to read as follows:

**§ 52.1167 EPA-approved Massachusetts State regulations.**

\* \* \* \* \*

TABLE 52.1167—EPA-APPROVED MASSACHUSETTS REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	FEDERAL REGISTER citation	52.1120(c)	Comments/unapproved sections
* * *	* * *	* * *	* * *	* * *	* * *	* * *
310 CMR 7.38	Tunnel vent certification regulation.	7/12/06	2/15/08	[Insert FEDERAL REGISTER page number where the document begins].	134	Amendments to Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District.
		7/12/06	2/15/08	[Insert FEDERAL REGISTER page number where the document begins].	134	Massachusetts Regulation Filing, dated December 13, 2005, substantiating December 30, 2005, State effective date for amended 310 CMR 7.38 "Certification of Tunnel Ventilation Systems in the Metropolitan Boston Air Pollution Control District."
* * *	* * *	* * *	* * *	* * *	* * *	* * *

**Notes:**

1. This table lists regulations adopted as of 1972. It does not depict regulatory requirements which may have been part of the Federal SIP before this date.

2. The regulations are effective statewide unless stated otherwise in comments or title section.

[FR Doc. E8-2745 Filed 2-14-08; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 070213033-7033-01]

RIN 0648-XF62

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 feet (18.3 m) LOA Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area in the Bering Sea and Aleutian Islands Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (< 18.3 meters (m)) length overall (LOA) using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the limit of Pacific cod for catcher vessels < 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 12, 2008, through 2400 hrs, A.l.t., December 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery

Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.22(a)(7)(i)(C), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that 113 metric tons of Pacific cod have been caught by catcher vessels < 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof exemption area described at § 679.22(a)(7)(i)(C)(1). Consequently, the Regional Administrator is prohibiting directed fishing for Pacific cod by catcher vessels < 60 ft (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**Classification**

This action responds to the best available information recently obtained