

**Environment**

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation as it establishes a safety zone. A final environmental analysis checklist and a final categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0843 to read as follows:

**§ 165.T01–0843 Safety Zone: Wantagh Parkway 2 Bridge over the Goose Creek Channel, Town of Hempstead, New York.**

(a) *Location.* The following area is a safety zone: All navigable waters of the federal channel on the Goose Creek Channel in Town of Hempstead, NY, from surface to bottom, within 100 yards to either side of the Wantagh 2 Bridge.

(b) *Definitions.* The following definitions apply to this section: *Designated on-scene patrol personnel*, means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels who has been authorized to act on the behalf of the Captain of the Port, Long Island Sound.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

(3) All persons and vessels must comply with the Coast Guard Captain of the Port or the designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(5) Persons and vessels may request permission to enter the zone on VHF–16 or via phone at (203) 468–4401.

(d) *Effective Period.* This rule is effective from 12:01 a.m. on September 2, 2008 to 11:59 p.m. on December 31, 2008.

Dated: August 15, 2008.

**Daniel A. Ronan,**

*Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.*

[FR Doc. E8–20480 Filed 9–3–08; 8:45 am]

**BILLING CODE 4910–15–P**

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

[EPA–R03–OAR–2007–1001; FRL–8709–7]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; NO<sub>x</sub> and SO<sub>2</sub> Emissions Limitations for Fifteen Coal-Fired Electric Generating Units**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to regulations for emission limitations at 15 Maryland power plants. The intended effect of this action is to approve, with one exception, Maryland's regulation which establishes statewide tonnage caps for emissions of nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) from 15 coal-fired electric generating units (EGUs). The exception pertains to a portion of the rule that Maryland requested EPA take no further action on. The provision, which EPA has determined has no impact on the rule that is being finalized today, will be withdrawn in a separate notice. This SIP action is being taken under the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on October 6, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID

Number EPA–R03–OAR–2007–1001. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web Site.

Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy 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. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:**

Marilyn Powers, (215) 814–2308, or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

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

On April 6, 2006, Maryland signed into law the Healthy Air Act (Ch. 23, Acts of 2006). The Healthy Air Act establishes limits on the amount of NO<sub>x</sub> and SO<sub>2</sub> emissions that affected facilities can emit, and does not permit the use of allowances to achieve compliance. To implement the Healthy Air Act, the Maryland Department of the Environment (MDE) adopted COMAR 26.11.27, Emission Limitations for Power Plants. These regulations require the installation of on-site pollution controls at 15 Maryland power plants and will ensure that appropriate local emission reductions will occur where they are needed in order to attain the 8-hour ozone and fine particulate matter National Ambient Air Quality Standards (NAAQS) by 2010.

A formal SIP revision (#07–10) was submitted by MDE on July 12, 2007. On January 10, 2008 (73 FR 1851), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of emission limitations and related requirements for NO<sub>x</sub> and SO<sub>2</sub> at 15 coal-fired electric generating units in Maryland. No public comments were received on the NPR.

On June 23, 2008, MDE submitted a letter withdrawing a portion of the July 12, 2007 submittal. The withdrawal is only for COMAR 26.11.27.03B(7)(a)(iii). This provision requires a unit that exceeds its ozone season NO<sub>x</sub> emissions

limit to surrender ozone season NO<sub>x</sub> allowances equivalent to the number of tons of NO<sub>x</sub> emitted in excess of the limit. The June 23, 2008 letter requested that EPA finalize its rulemaking with respect to the rest of the SIP Revision that is not withdrawn. EPA determined that removal of regulation COMAR

26.11.27.03B(7)(a)(iii) does not impact the rest of the requirements in COMAR 26.11.27, and is severable. By separate action, EPA will withdraw this provision as requested by MDE.

**II. Summary of SIP Revision**

The MDE is requesting that regulation COMAR 26.11.27, establishing tonnage

caps for emissions of NO<sub>x</sub> and SO<sub>2</sub> from 15 coal-fired EGUs in Maryland, be approved. The purpose of these regulations is to help bring Maryland into attainment with the NAAQS for 8 hour ozone and fine particulate matter by the 2010 attainment deadline. The 15 affected units are as follows:

Electric generating unit	Jurisdiction
<b>Constellation Energy Group System</b>	
Brandon Shores 1 & 2 .....	Anne Arundel County.
H. A. Wagner 2 & 3 .....	Anne Arundel County.
C. P. Crane 1 & 2 .....	Baltimore County.
<b>Mirant System</b>	
Chalk Point 1 & 2 .....	Prince George's County.
Dickerson 1, 2, & 3 .....	Montgomery County.
Morgantown 1 & 2 .....	Charles County.
<b>Allegheny Energy</b>	
R. Paul Smith 3 & 4 .....	Washington County.

These regulations also establish monitoring and reporting requirements, and authorize the MDE to reduce or waive penalties for non-compliance under certain conditions and provide for judicial review of decisions by the MDE to grant a reduction or waiver of penalties.

**III. Final Action**

Maryland has met the requirements for submitting a SIP revision to limit NO<sub>x</sub> and SO<sub>2</sub> emissions from 15 coal-fired EGUs. With the exception of COMAR 26.11.27.03B(7)(a)(iii), which will be withdrawn by separate action, EPA is approving the SIP revision.

**IV. Statutory and Executive Order Reviews**

*A. General Requirements*

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

*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 action 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).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 3, 2008. 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 Maryland's SIP revision concerning emission limitations for NO<sub>x</sub> and SO<sub>2</sub> at 15 coal-fired EGUs 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 20, 2008.  
**William T. Wisniewski,**  
*Acting 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 V—Maryland**

■ 2. In § 52.1070, the table in paragraph (c) is amended by adding an entry for COMAR 26.11.27 after the existing entry for COMAR 26.11.26 to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*

**EPA-APPROVED REGULATIONS IN THE MARYLAND SIP**

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
<b>26.11.27 Emission Limitations for Power Plants</b>				
26.11.27.01	Definitions	7/16/07	9/4/08 [Insert page number where the document begins].	
26.11.27.02	Applicability and Exceptions	7/16/07	9/4/08 [Insert page number where the document begins].	
26.11.27.03	General Requirements	7/16/07	9/4/08 [Insert page number where the document begins].	Exceptions: Paragraphs .03B(7)(a)(iii) and .03D; the word "and" at the end of paragraph .03B(7)(a)(ii).
26.11.27.05	Monitoring and Reporting Requirements.	7/16/07	9/4/08 [Insert page number where the document begins].	
26.11.27.06	Judicial Review of Penalty Waivers.	7/16/07	9/4/08 [Insert page number where the document begins].	

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 071106671-8010-02]

RIN 0648-XK24

**Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the

shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 3, 2008, through 1200 hrs, A.l.t., October 1, 2008.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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.

The fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA is 150 metric tons as established by the 2008 and 2009 harvest specifications for groundfish of the GOA (73 FR 10562, February 27, 2008), for the period 1200 hrs, A.l.t., September 1, 2008, through 1200 hrs, A.l.t., October 1, 2008.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates and "other species." This inseason action does not apply to