

**DATES:** This deviation is effective from 6:30 a.m. on November 5, 2007 through 6:30 p.m. on December 18, 2007.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** John McDonald, Project Officer, First Coast Guard District, at (617) 223-8364.

**SUPPLEMENTARY INFORMATION:** The Carlton Bridge, across the Kennebec River, mile 14.0, between Bath and Woolwich, Maine, has a vertical clearance in the closed position of 10 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.525.

The owner of the bridge, Maine Department of Transportation, requested a temporary deviation to facilitate bridge painting operations at the Carlton Bridge. The bridge rarely opens for vessel traffic in November and December.

Under this temporary deviation the Carlton Bridge need not open for the passage of vessel traffic between 6:30 a.m. and 6:30 p.m. on the days of November 5, 6, 12, 13, 19, 20, 26, 27, and December 3, 4, 10, 11, 17, and 18, 2007. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge 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.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operation schedule.

Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

Dated: October 15, 2007.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E7-21244 Filed 10-26-07; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2003-0048; FRL-8482-2]

RIN 2060-AO65

### National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products

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

**ACTION:** Final rule.

**SUMMARY:** On June 19, 2007, the United States Court of Appeals for the District of Columbia Circuit (the Court) vacated EPA's provisions in the National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products that established an October 1, 2008, compliance deadline and that created and delisted a low risk subcategory of plywood and composite wood products facilities. This action announces the Court's decision and promulgates ministerial amendments that will incorporate the Court's decision into the Code of Federal Regulations.

**DATES:** This rule was effective on October 29, 2007.

**ADDRESSES:** The EPA does not seek comment on this final rule. The opinion issued by the Court on June 19, 2007 and other information about the rule are contained in Docket ID No. OAR-2003-0048 and Legacy Docket ID No. A-98-44. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center, Docket ID No. EPA-HQ-OAR-2003-0048, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For information concerning applicability and compliance assistance, contact your State or local representative or

appropriate EPA Regional Office representative. For other information, contact Ms. Mary Tom Kissell, Office of Air Quality Planning and Standards, Sector Policies and Program Division, Coatings and Chemicals Group (E143-01), EPA, Research Triangle Park, NC 27711; telephone number: (919) 541-4516; fax number: (919) 541-0246; e-mail address: [kissell.mary@epa.gov](mailto:kissell.mary@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without first providing notice and an opportunity for public comment on a proposed rule. There is good cause for making today's rule final without prior proposal and opportunity for comment because the Court vacated EPA's promulgation of the October 1, 2008, compliance date and of the low-risk provisions. The Court ruled that EPA was without statutory authority in our 2006 amendments to the national emission standards for hazardous air pollutants (NESHAP) to re-set the compliance date of October 1, 2007, first promulgated in the 2004 NESHAP. The Court also ruled that EPA had no statutory authority to create and then delist the low-risk Plywood and Composite Wood Products (PCWP) subcategory.<sup>1</sup> Therefore, today's action has no legal effect beyond ministerially fulfilling the Court's order and is clerical in nature: we are merely revising the Code of Federal Regulations to conform our rules to the Court's order and announcing the Court's decision. Thus, notice and public procedure are unnecessary.

EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Providing an opportunity to comment on a proposed conforming amendment would be impracticable because it would unacceptably delay EPA's action beyond the October 1, 2007, compliance deadline the Court ruled EPA must re-impose. It would also be unnecessary, since the Court's direction was clear that EPA must remove the 2006 NESHAP's amendment re-setting the deadline beyond October 1, 2007, and the 2004 and 2006 provisions creating and delisting the low-risk PCWP subcategory was beyond EPA's statutory authority. Finally, it is not in the public

<sup>1</sup> The Court also remanded and vacated EPA's determinations that certain process units at PCWP facilities need not be subject to emissions controls. EPA will respond to that portion of the Court's ruling in a separate notice and comment rulemaking, and is not addressing that issue in today's final rule.

interest to delay revising the rule to conform to the Court's order on these issues, as continuing to leave the vacated provisions in place creates

confusion among the regulated community, implementing States and local governments, and the general public.

### Regulated Entities

Categories and entities potentially affected by today's action include:

Category	SIC code <sup>a</sup>	NAICS code <sup>b</sup>	Examples of regulated entities
Industry .....	2421	321999	Sawmills with lumber kilns.
	2435	321211	Hardwood plywood and veneer plants.
	2436	321212	Softwood plywood and veneer plants.
	2493	321219	Reconstituted wood products plants (particleboard, medium density fiberboard, hardboard, fiberboard, and oriented strandboard plants).
	2439	321213	Structural wood members, not elsewhere classified (engineered wood products plants).

<sup>a</sup> Standard Industrial Classification.

<sup>b</sup> North American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by today's action. To determine whether your facility is affected by today's action, you should examine the applicability criteria in § 63.2231 of the final rule. If you have questions regarding the applicability of today's action to a particular entity, consult your State or local representative or the appropriate EPA Regional Office representative.

### Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's action also will be available on the Worldwide Web (WWW) through EPA's Technology Transfer Network (TTN). Following the Administrator's signature, a copy of this action will be posted on the TTN's policy and guidance page for newly promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

### I. Background

We proposed NESHAP for the PCWP source category on January 9, 2003 (68 FR 1276). The final rule (subpart DDDD in 40 CFR part 63) was published on July 30, 2004 (69 FR 45944). In addition to adopting maximum achievable control technology (MACT) standards for the PCWP category, we adopted a risk-based approach in the 2004 final rule by establishing and delisting a low-risk subcategory of PCWP affected sources, which would have allowed low-risk sources to avoid complying with MACT. Except for eight sources that we determined were already eligible to join the low-risk subcategory and avoid MACT, all PCWP sources were initially included in the category subject to MACT, and any would-be low-risk sources could subsequently

join the low-risk subcategory after EPA approved their submitted low-risk demonstrations. The methodology and criteria for PCWP affected sources to use in demonstrating that they are eligible to join the delisted low-risk subcategory were promulgated in the 2004 final rule in appendix B to subpart DDDD of 40 CFR part 63. Any source who failed to obtain EPA approval of a low-risk demonstration would remain subject to MACT.

Following promulgation of the 2004 final PCWP rule, the Administrator received a petition for reconsideration filed by the Natural Resources Defense Council (NRDC) and Environmental Integrity Project (EIP) pursuant to section 307(d)(7)(B) of the Clean Air Act (CAA). The petition requested reconsideration of nine aspects of the final rule including the legal basis for the risk-based provisions. The petition for reconsideration also requested a stay of the effectiveness of the risk-based provisions. In a letter dated December 6, 2004, EPA granted NRDC's and EIP's petition for reconsideration and declined the petitioners' request that we take action to stay the effectiveness of the risk-based provisions.

On July 29, 2005 (70 FR 44012), we published a notice of reconsideration and requested comment on the issues in the petition for reconsideration, including the full content of appendix B to subpart DDDD. In a separate notice published on July 29, 2005 (70 FR 44012), we proposed amendments to subpart DDDD and both of the appendices to subpart DDDD including a request for comment on whether the MACT compliance date should be extended for sources submitting low-risk demonstrations or for all sources. On February 16, 2006, EPA promulgated amendments to the National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood

Products. In the 2006 final rule, we promulgated a revised compliance deadline of October 1, 2008, for sources subject to the rule, which was 1 year later than the date originally promulgated.

Following promulgation of the 2004 final PCWP rule, four petitions for judicial review of the final PCWP rule were filed with the Court by NRDC and Sierra Club (No. 04–1323, D.C. Cir.), EIP (No. 04–1235, D.C. Cir.), Louisiana-Pacific Corporation (No. 04–1328, D.C. Cir.), and Norbord Incorporated (No. 04–1329, D.C. Cir.). The four cases were consolidated. The NRDC, Sierra Club, and EIP petitions for judicial review<sup>2</sup> addressed three major concerns: (1) EPA's legal authority to create and delist a low-risk subcategory; (2) EPA's resetting of the compliance date; and (3) EPA's failure to set emission standards for HAP from all emission points. In March 2007, before the Court decided the PCWP case, it ruled in *Sierra Club*, 479 F.3d 875, that "EPA's failure to set floors for existing small tunnel brick kilns and new periodic brick kilns violated [the] CAA \* \* \* noting that the court had held unlawful EPA's "no control" emissions floors for categories in which the best performers used no emission control technology." Subsequently, in April 2007, EPA requested a voluntary remand and vacatur of the 2004 final MACT determinations for PCWP emissions points that do not have emission limits (i.e., the "no emission reduction" MACT determinations also commonly known as "no-control MACT floors").

On June 19, 2007, the Court issued its opinion remanding and vacating EPA's no emission reduction MACT determinations, the low-risk provisions,

<sup>2</sup> The Louisiana-Pacific Corporation and Norbord Incorporated petition for judicial review did not result in any change to the PCWP NESHAP and is not discussed in this preamble.

and the October 1, 2008 compliance date.

While today's rule implements the Court's order regarding the compliance date and low-risk subcategory provisions, EPA will separately reconsider the MACT determinations for the emission points for which EPA had previously determined MACT to be "no emissions reduction," and publish our proposed responses to the Court's remand of those decisions in a separate notice.

## II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see the **SUPPLEMENTARY INFORMATION** section of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). 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). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This final rule does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate ambiguity as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). 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.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the July 30, 2004 **Federal Register** notice.

The Congressional Review Act (CRA) (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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 18, 2007.

**Stephen L. Johnson,**  
Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

### PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401.

### Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraphs (b)(54), (f)(3) and (f)(4) to read as follows:

#### § 63.14 Incorporation by reference.

\* \* \* \* \*

(b) \* \* \*

(54) ASTM D6348-03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, incorporation by reference (IBR) approved for Table 4 to Subpart DDDD of this part as specified in the subpart.

\* \* \* \* \*

(f) \* \* \*

\* \* \* \* \*

(3) NCASI Method IM/CAN/WP-99.02, Impinger/Canister Source Sampling Method for Selected HAPs and Other Compounds at Wood Products Facilities, January 2004, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for Table 4 to Subpart DDDD of this part.

(4) NCASI Method ISS/FP A105.01, Impinger Source Sampling Method for Selected Aldehydes, Ketones, and Polar Compounds, December 2005, Methods Manual, NCASI, Research Triangle Park, NC, IBR approved for table 4 to subpart DDDD of this part.

\* \* \* \* \*

### Subpart DDDD—National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products—[Amended]

■ 3. Section 63.2231 is amended by revising the introductory paragraph to read as follows:

#### § 63.2231 Does this subpart apply to me?

This subpart applies to you if you meet the criteria in paragraphs (a) and (b) of this section.

\* \* \* \* \*

■ 4. Section 63.2233 is amended by revising paragraphs (b) and (c) to read as follows:

#### § 63.2233 When do I have to comply with this subpart?

\* \* \* \* \*

(b) If you have an existing affected source, you must comply with the compliance options, operating requirements, and work practice requirements for existing sources no later than October 1, 2007.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, you must be in compliance with this subpart by October 1, 2007 or

upon initial startup of your affected source as a major source, whichever is later.

\* \* \* \* \*

■ 5. Section 63.2291 is amended by revising paragraph (c) introductory text and removing paragraph (c)(5) to read as follows:

**§ 63.2291 Who implements and enforces this subpart?**

\* \* \* \* \*

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) \* \* \*

\* \* \* \* \*

**Appendices B and C—[Removed]**

■ 6. Appendices B and C to Subpart DDDD of part 63 are removed.

[FR Doc. 07–5295 Filed 10–26–07; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[Docket No. EPA–R05–RCRA–2007–0397; FRL–8488–6]

**Ohio: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is granting Ohio Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The agency published a proposed rule on June 6, 2007 at 72 FR 31237 and provided for public comment. The public comment period ended on July 6, 2007. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is proposing to authorize the State's changes through this proposed final action.

**DATES:** The final authorization will be effective on October 29, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R05–RCRA–2007–0397. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some of the information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy. You may view and copy Ohio's application from 9 a.m. to 4 p.m. at the following addresses: U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois, contact: Gary Westefer (312) 886–7450; or Ohio Environmental Protection Agency, Lazarus Government Center, 50 West Town Street, Suite 700, Columbus, Ohio, contact: Jeff Mayhugh (614) 644–2950.

**FOR FURTHER INFORMATION CONTACT:** Gary Westefer, Ohio Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450, e-mail [westefer.gary@epa.gov](mailto:westefer.gary@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Decisions Have We Made in This Rule?**

We conclude that Ohio's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Ohio final authorization to operate its hazardous waste program with the changes described in the authorization application. Ohio has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in

authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Ohio, including issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is that a facility in Ohio subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Ohio has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

1. Do inspections, and require monitoring, tests, analyses or reports
2. Enforce RCRA requirements and suspend or revoke permits
3. Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Ohio is being authorized by today's action are already effective, and are not changed by today's action.

**D. Proposed Rule**

On June 6, 2007 (72 FR 31237), EPA published a proposed rule. In that rule we proposed granting authorization of changes to Ohio's hazardous waste program and opened our decision to public comment. The agency received no comments on this proposal. EPA found Ohio's RCRA program to be satisfactory.

**E. What Has Ohio Previously Been Authorized for?**

Ohio initially received final authorization on June 28, 1989, effective June 30, 1989 (54 FR 27170) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on April 8, 1991, effective June 7, 1991 (56 FR 14203) as corrected June 19, 1991, effective August 19, 1991 (56 FR 28088); July 27, 1995, effective September 25, 1995 (60 FR 38502); October 23, 1996, effective December 23, 1996 (61 FR 54950); January 24, 2003, effective January 24, 2003 (68 FR 3429); and January 20, 2006, effective January 20, 2006 (71 FR 3220).