

The drawspan will be secured in the closed-to-navigation position, from 6 a.m. on September 3, 2008 through 7 p.m. on November 14, 2008, to allow the City of Petaluma to conduct needed maintenance, which includes; trunion pin replacement, deck resurfacing, and painting of the entire structure. To facilitate the maintenance, the contractor will install scaffolding beneath the bridge deck, reducing the vertical clearance provided for by the bridge in the closed-to-navigation position, by 5 feet.

From September through November, 2005–2007, the drawspan averaged 294 openings for vessels. This temporary deviation has been coordinated with waterway users. There will be no impact to commercial waterway users, no dredging is scheduled during this deviation period, and the City of Petaluma Visitors Bureau has been informing recreational waterway users of the maintenance. 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 24 days 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: August 19, 2008.

P.F. Zukunft,

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

[FR Doc. E8–19991 Filed 8–27–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 70

RIN 2900–AM02

Beneficiary Travel Under 38 U.S.C. 111 Within the United States; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendment.

SUMMARY: The Department of Veterans Affairs (VA) published a document in the *Federal Register* on June 30, 2008 (73 FR 36796), amending its beneficiary travel regulations that provide a mechanism for payment of travel expenses within the United States under 38 U.S.C. 111 to help veterans and other

persons obtain care and services from VA's Veterans Health Administration (VHA). That document contained a typographical error. This document corrects that error.

DATES: *Effective Date:* August 28, 2008.

FOR FURTHER INFORMATION CONTACT:

Tony Guagliardo, Chief Business Office (16), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (202) 254–0406. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 30, 2008, VA published a final rule in the *Federal Register* (73 FR 36796) amending its beneficiary travel regulation. The revised regulations, set forth at 38 CFR part 70, provide a mechanism for payment of travel expenses within the United States under 38 U.S.C. 111 to help veterans and other persons obtain care and services from VA's Veterans Health Administration. In making the necessary edits, a word was accidentally omitted in § 70.10(b). This document corrects the error in § 70.10(b) by removing "care services" and adding, in its place "care or services".

List of Subjects in 38 CFR Part 70

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

William F. Russo,

Director of Regulations Management.

■ For the reason set out in the preamble, VA is correcting 38 CFR part 70 as follows:

PART 70—VHA BENEFICIARY TRAVEL UNDER 38 U.S.C. 111

■ 1. The authority citation for part 70 continues to read as follows:

Authority: 38 U.S.C. 101, 111, 501, 1701, 1714, 1720, 1728, 1782, 1783, E.O 11302.

§ 70.10 [Amended]

■ 2. In § 70.10, paragraph (b) is amended by removing "care services" and adding, in its place, "care or services".

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BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–0027; FRL–8708–6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Electric Generating Unit Multi-Pollutant Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision establishes limits on the emissions of nitrogen oxides

(NO_x) and sulfur dioxide (SO₂) from Delaware's large electric generating units (EGUs). EPA is approving this SIP revision in accordance with the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on September 29, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2007–0027. All documents in the docket are listed in the <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 <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 Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 17, 2007 (72 FR 27787), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of Regulation No. 1146—Electric Generating Unit Multi-Pollutant Regulation. The formal SIP revision was submitted by Delaware on November 16, 2006.

II. Summary

Regulation No. 1146 establishes limits on the emissions of NO_x and SO₂ from Delaware's large EGUs. The large EGUs subject to this regulation are Connective Delmarva Generating, Inc.'s Edge Moor Generating Station Units 3, 4 and 5; City of Dover's McKee Run Generating Unit 3; and NRG Energy, Inc.'s Indian Generating Station Units 1, 2, 3 and 4. Other specific requirements of Regulation No. 1146 and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. On June 18, 2007, EPA received comments on its May 17, 2007 NPR. A summary of the comments submitted and EPA's response is provided in Section III of this document.

III. Summary of Public Comments and EPA Responses

Comment: The commenter opposes the approval of Regulation No. 1146 since it may be changed or invalidated in the current pending appeals process.

Response: EPA disagrees with this comment. Regulation No. 1146 was appealed by three regulated entities: City of Dover's McKee Run Generating Station; NRG Energy Inc. (NRG); and Connective Delmarva Generating Station (Connective). The City of Dover and NRG appeals have been settled, and only Connective remains. Currently, Regulation No. 1146 is in effect and enforceable in Delaware, and at this time, all covered units, including Connective units are in the process of designing and installing emission control equipment to meet the requirements of Regulation No. 1146.

Comment: The commenter states that the SIP should not include requirements of Regulation No. 1146 that are not necessary for attaining compliance with the 8-hour ozone standard. The following are not elements of DNREC's plan to attainment of the 8-hour ozone standard: (1) Annual NO_x emissions caps, and (2) annual SO₂ emissions caps and emission rate limitations.

Response: EPA disagrees with the premise of this comment. The reductions associated with Regulation No. 1146, including the annual NO_x caps and the annual SO₂ caps and emission rate limitations, will support the attainment of the 8-hour ozone and fine particulate matter (PM_{2.5}) NAAQS. The emissions reductions also provide necessary support for the 8-hour ozone reasonable further progress plan. Meeting these goals will help clean Delaware's air. In understanding EPA's role with regard to review and approval or disapproval of rules submitted by states as SIP revisions, EPA can only

take action upon the final adopted versions of a state's regulation as submitted by that state in its SIP revision request, and must approve a SIP that meets the minimum requirements of the CAA. It is not within EPA's authority, by its rulemaking on the SIP revision or otherwise, to change or modify the text or substantive requirements of a state regulation. Therefore, EPA cannot modify Delaware's regulation as recommended in the comment.

Comment: The commenter states that Regulation No. 1146 overwrites the carefully-balanced provisions of the Clean Air Interstate Rule (CAIR). The units covered by Regulation No. 1146 are subject to CAIR and have already been allocated annual and ozone season NO_x allowances under the CAIR Federal Implementation Plan (FIP) for Delaware. Regulation No. 1146 imposes inconsistent NO_x and SO₂ emission requirements on these same units. Requirements to comply with these additional state regulations are unnecessary and unduly burdensome for affected owners.

Response: EPA disagrees with this comment. Regulation No. 1146 is not intended to replace the Federal CAIR requirements and does not relieve affected sources from participating in and complying with any CAIR cap-and-trade program requirements. The recent decision by the District Court for the District of Columbia Circuit in *North Carolina v. EPA*, No. 05-1244 (July 11, 2008), when final, would vacate CAIR. If CAIR is eventually vacated pursuant to the Court decision, the commenter's concern will no longer exist. However, even if CAIR remains in effect, a State may establish and may be required to establish requirements, including requirements for units covered by CAIR, to address local nonattainment problems. CAIR addresses the state's section 110(a)(2)(D) obligation to eliminate significant contribution to downwind nonattainment on the PM_{2.5} and 8-hour ozone NAAQS. In addition to meeting their 110(a)(2)(D) obligations, states are obliged to adopt such additional SIP provisions as are necessary to address NAAQS nonattainment within their own borders. In addition, they retain authority under section 116 of the CAA to adopt regulations more stringent than federal minimum requirements. The commenter has not identified, and indeed could not identify, any requirement of CAIR that prohibits states from adopting such emission reduction requirements or emission caps. For these reasons, Regulation No. 1146, thus, is not inconsistent with

CAIR and the commenter's conclusions are incorrect, because, although more stringent than CAIR, it is intended to address such local contributions to nonattainment areas. EPA therefore concludes that Regulation No. 1146 is approvable whether or not CAIR is eventually vacated.

IV. Final Action

EPA is approving Delaware's EGU Multi-Pollutant Regulation as a revision to Delaware SIP that was submitted on November 16, 2006 pertaining to NO_x and SO₂. This regulation will result in the reduction of NO_x and SO₂ emissions from the affected sources.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, 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 CAA. 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 CAA; 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 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 October 27, 2008. Filing a petition for Reconsideration by the Administrator of this final rule does not affect the finality of this action 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, pertaining to Delaware's EGU Multi-Pollutant Regulation, 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, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 18, 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 I—Delaware

- 2. In § 52.420, the table in paragraph (c) is amended by adding entries for Regulation No. 1146—Electric Generating Unit Multi-Pollutant Regulation at the end of the table to read as follows:

§ 52.420 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Regulation No. 1146	Electric Generating Unit (EGU) Multi-Pollutant Regulation			
Section 1.0	Preamble	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 2.0	Applicability	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 3.0	Definitions	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 4.0	NO _x Emissions Limitations.	12/11/06	08/28/08 [Insert page number where the document begins].	
Section 5.0	SO ₂ Emissions Limitations.	12/11/06	08/28/08 [Insert page number where the document begins].	
Section 7.0	Recordkeeping and Reporting.	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 8.0	Compliance Plan ..	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Section 9.0	Penalties	12/11/06	08/28/08 [Insert page number where the document begins].	Except for provisions pertaining to mercury emissions.
Table I	Annual NO _x Mass Emissions Limits.	12/11/06	08/28/08 [Insert page number where the document begins].	
Table II	Annual SO ₂ Mass Emissions Limits.	12/11/06	08/28/08 [Insert page number where the document begins].	

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[FR Doc. E8-19765 Filed 8-27-08; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket No. FEMA-8037]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation proving the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice will be provided by publication in the **Federal Register** on a subsequent date.

DATES: Effective Dates: The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or obtain additional information, contact David Stearrett, Federal Emergency Management Agency, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood

Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et. seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet the statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

Previously, FEMA identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on the FEMA initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds the notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because the communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating the community will be suspended unless the required floodplain management measures are

met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows: