

Marker 296.7 daily from 7 a.m. to 11 a.m. and from 1 p.m. to 5 p.m. on December 6, 2010 through December 11, 2010 and from December 13, 2010 through December 18, 2010. This enforcement action will then occur again from 7 a.m. on December 20, 2010 through 5 p.m. on December 23, 2010. This action is necessary to protect the waterways, waterway users, and vessels from hazards associated with the U.S. Army Corps of Engineers' startup testing of the new dispersal barrier IIB, which will help control the spread of aquatic nuisance species that have the potential of devastating the waters of the Great Lakes.

During the enforcement period, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

DATES: The regulations in 33 CFR 165.T09-0166 will be enforced from 7 a.m. on December 6, 2010 through 5 p.m. on December 23, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail CDR Tim Cummins, Deputy Prevention Division, Ninth Coast Guard District, telephone 216-902-6045, e-mail address Timothy.M.Cummins@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.T09-0166, on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 daily from 7 a.m. to 11 a.m. and from 1 p.m. to 5 p.m. on December 6, 2010 through December 11, 2010 and from December 13, 2010 through December 18, 2010. This enforcement action will then occur again from 7 a.m. on December 20, 2010 through 5 p.m. on December 23, 2010.

This enforcement action is necessary because the Captain of the Port, Sector Lake Michigan has determined that the U.S. Army Corps of Engineers' dispersal barrier IIB startup testing poses risks to life and property. The combination of vessel traffic and electric current in the water makes the control of vessels through the impacted portion of the Chicago Sanitary and Ship Canal necessary to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry

into, transiting, mooring, laying up, or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

This notice is issued under authority of 33 CFR 165.T09-0166 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Sector Lake Michigan, will also provide notice through other means, which may include but are not limited to Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port, Sector Lake Michigan, may notify representatives from the maritime industry through telephonic and e-mail notifications.

Dated: November 17, 2010.

S.R. Schenk,

Commander, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan, Acting.

[FR Doc. 2010-30148 Filed 11-29-10; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R03-OAR-2010-0771; FRL-9233-4]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, State of Delaware; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the State of Delaware's negative declaration and request for EPA withdrawal of its section 111(d)/129 plan (the plan) approval for HMIWI units.

DATES: This rule is effective January 31, 2011 without further notice, unless EPA receives adverse written comment by December 30, 2010. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0771 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* wilkie.walter@epa.gov.

C. *Mail:* EPA-R03-OAR-2010-0771, Walter K. Wilkie, Associate Director, Air Protection Division, Office of Air Monitoring and Analysis, Mailcode 3AP40, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2010-0771. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://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 information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://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 <http://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 <http://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 <http://www.regulations.gov> or in hard copy 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 and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., at (215) 814-2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Delaware HMIWI plan and related state rule were approved by EPA in the April 14, 2000 edition of the **Federal Register** and codified in 40 CFR part 62, subpart I. (65 FR 20090). However, since that time, all three designated incinerator facilities in the plan inventory have been dismantled, according to the Delaware Department of Natural Resources and Environmental Control (DNREC). On October 6, 2009, EPA promulgated revised HMIWI emission guidelines under 40 CFR part 60, subpart Ce, that triggered the need for revised state plans. As a result, on June 17, 2010, the DNREC requested EPA's approval of its negative declaration and plan withdrawal request. The submitted negative declaration contains the name of each designated facility that was dismantled, and the year it was dismantled.

II. Final Action

EPA is approving the State of Delaware's negative declaration and request for EPA withdrawal of its plan approval for HMIWI units. DNREC has determined that there are now no designated facilities, subject to subpart Ce requirements, in its air pollution control jurisdiction. EPA accepts that determination. Accordingly, EPA is amending part 62 to reflect approval of the DNREC June 17, 2010 negative declaration and request for EPA withdrawal of the HMIWI plan approval. However, if an affected Delaware HMIWI unit is discovered in the future, all the requirements of the Federal Plan (including revisions or amendments), part 62, subpart HHH, will be applicable to the affected unit.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is

not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing section 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan

submission, to use VCS in place of a 111(d)/129 plan submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 31, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Delaware section 111(d)/129 negative declaration and request for EPA withdrawal of the HMIWI plan approval may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: November 17, 2010.

W.C. Early,

Acting Regional Administrator, Region III.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart I—Delaware

■ 2. Section 62.1975 is amended by revising the section heading, designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 62.1975 Identification of plan—negative declaration.

* * * * *

(b) On June 17, 2010, the Delaware Department of Natural Resources and Environmental Control submitted a negative declaration and request for withdrawal of EPA's plan approval under paragraph (a) of this section.

§ 62.1976 [Removed]

■ 3. Section 62.1976 is removed.

■ 4. Section 62.1977 is revised to read as follows:

§ 62.1977 Effective date.

The effective date of the negative declaration and EPA withdrawal of the plan approval is January 31, 2011.

[FR Doc. 2010–30102 Filed 11–29–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 81**

[EPA–R04–OAR–2010–0614–201055; FRL–9234–2]

Approval and Promulgation of Implementation Plans; Extension of Attainment Date for the Atlanta, GA 1997 8-Hour Ozone Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a request from the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (EPD), to grant a one-year extension of the attainment date for the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the Atlanta, Georgia Area (hereafter referred to as the "Atlanta Area"). This request was sent to EPA via letter from EPD on June 9, 2010. The Atlanta Area consists of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry,

Newton, Paulding, Rockdale, Spalding, and Walton Counties in Georgia. In today's action, EPA is finalizing a determination that the State of Georgia has met the Clean Air Act (CAA or Act) requirements to obtain a one-year extension to its attainment date for the 1997 8-hour ozone NAAQS for the Atlanta Area. As a result, EPA is approving a one-year extension of the 1997 8-hour ozone moderate attainment date for the Atlanta Area. Specifically, EPA (through this final action) is extending the Atlanta Area's attainment date from June 15, 2010, to June 15, 2011.

DATES: *Effective Date:* This rule will be effective December 30, 2010.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2010–0614. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person 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 Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Spann or Ms. Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number for Ms. Spann is (404) 562–9029. Ms. Spann can also be reached via electronic mail at spann.jane@epa.gov. The telephone number for Ms. Waterson is (404) 562–9061. Ms. Waterson can also be reached via electronic mail at waterson.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Background

Detailed background information and rationale for today's final action can be found in EPA's proposed rule entitled "Approval and Promulgation of Implementation Plans; Extension of Attainment Date for the Atlanta, GA 1997 8–Hour Ozone Moderate Nonattainment Area," 75 FR 56943 (September 17, 2010). The comment period for EPA's proposed action closed on October 18, 2010. EPA did not receive any comments, adverse or otherwise, on its proposed action to extend the attainment date for the Atlanta 1997 8-hour ozone area. This section includes a brief summary of the background information and rationale for EPA's approval of Georgia's one-year extension request.

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether an ozone nonattainment area attained the NAAQS. CAA section 181(b)(2)(A) states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified to the next classification. However, in accordance with CAA Section 181(a)(5), EPA may grant up to 2 one-year extensions of the attainment date under specified conditions. Specifically, in relevant part, Section 181(a)(5) states:

"Upon application by any State, the Administrator may extend for one additional year (hereinafter referred to as the "Extension Year") the date specified in table 1 of paragraph (1) of this subsection if—

(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

With regard to the first element, "applicable implementation plan" is defined in Section 302(q) of the CAA as, the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under Section 110, or promulgated under Section 110(c), or promulgated or approved pursuant to regulations promulgated under Section 301(d) and which implements the relevant requirements of the CAA.