

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

[EPA-R03-OAR-2007-0450; FRL-8469-4]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to the Open Burning 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 pertains to the amendments of Delaware's open burning regulation. EPA is approving this SIP revision in accordance with the Clean Air Act.

**DATES:** *Effective Date:* This final rule is effective on October 22, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2007-0450. 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 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](mailto:quinto.rose@epa.gov).

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

On June 21, 2007 (72 FR 34207), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of Delaware's open burning regulation (Regulation No. 1113). The formal SIP revision was submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) on May 2, 2007. Other specific requirements of Delaware's open burning regulation and

the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

**II. Final Action**

EPA is approving Regulation No. 1113—Open Burning as a revision to the Delaware SIP. This SIP revision was submitted on May 2, 2007.

**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. 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.*).

*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 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 November 19, 2007. 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, pertaining to Delaware's amendments to the open burning 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 6, 2007.

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 revising the title and entries for Regulation No. 13—Open Burning 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
*	*	*	*	*
<b>Regulation 1113</b>		<b>Open Burning (Formerly Regulation 13)</b>		
Section 1.0 .....	Purpose .....	04/11/07	09/20/07 [Insert page number where the document begins].	
Section 2.0 .....	Applicability .....	04/11/07	09/20/07 [Insert page number where the document begins].	
Section 3.0 .....	Definitions .....	04/11/07	09/20/07 [Insert page number where the document begins].	
Section 4.0 .....	Prohibitions and Related Provisions.	04/11/07	09/20/07 [Insert page number where the document begins].	
Section 5.0 .....	Season and Time Restrictions ....	04/11/07	09/20/07 [Insert page number where the document begins].	
Section 6.0 .....	Allowable Open Burning .....	04/11/07	09/20/07 [Insert page number where the document begins].	
Section 7.0 .....	Exemptions .....	04/11/07	09/20/07 [Insert page number where the document begins].	
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[FR Doc. E7-18352 Filed 9-19-07; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 07-2882; MB Docket No. 05-67; RM-11116, RM-11342]

#### Radio Broadcasting Services; Clinton, Fishers, Indianapolis, and Lawrence, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal.

SUMMARY: This *Report and Order* dismisses two Counterproposals as unacceptable for consideration. In addition, this *Report and Order* upgrades Channel 230A, Station WWFT (FM), Fishers, Indiana, to Channel

230B1, reallocates Channel 230B1 from Fishers to Lawrence, Indiana, as Lawrence's first local aural transmission service, and modifies Station WWFT (FM)'s license accordingly. In order to maintain local service at Fishers, the *Report and Order* reallocates Channel 238B, Station WFMS (FM), from Indianapolis to Fishers, Indiana, and modifies Station WFMS (FM)'s license accordingly. To accommodate the reallocation of Channel 230B1 to Lawrence, the *Report and Order* substitutes Channel 229A for Channel 230A at Station WPFR-FM. Clinton, Indiana, and modifies Station WPFR-FM's license accordingly. The Media Bureau's Consolidated Database System (CDBS) reflects these changes.

ADDRESSES: Federal Communications Commission; 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05-67, adopted June 27, 2007, and released June 29, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will not send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because Section 73.202(b) of the