

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 amends 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–652 to read as follows:

§ 165.T11–652 Safety zone; Urban Shield 2014, South San Francisco Bay, Oakland, CA.

(a) *Location.* This temporary safety zone will encompass the navigable waters of the South San Francisco Bay within an area connecting the following points: 37°41'57" N, 122°13'17" W; 37°41'49" N, 122°17'42" W; 37°40'16" N, 122°17'42" W; 37°40'27" N, 122°14'49" W; thence back to the point of origin (NAD 83), as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18651.

(b) *Enforcement Period.* The zone described in paragraph (a) of this section will be enforced from 8 a.m. until 7 p.m. on September 6 and 7, 2014. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, “designated representative” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in accordance with a memorandum of understanding in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR part 165, subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated

representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: August 18, 2014.

Gregory G. Stump,
Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2014–20958 Filed 9–2–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[EPA–R01–OAR–2012–0260; A–1–FRL–9915–71–Region 1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: New Hampshire; Revised State Plan for Large and Small Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Clean Air Act section 111(d)/129 State Plan revisions for Large and Small Municipal Waste Combustors (MWCs) submitted by the New Hampshire Department of Environmental Services (DES) on January 29, 2009 with amendments submitted on February 13, 2009. The revised State Plan is in response to amended emission guidelines (EGs) and new source performance standards (NSPS) for Large MWCs promulgated by EPA on May 10, 2006 and the strengthening of emission limits on Small MWCs as enacted by the New Hampshire General Court in 2005. New Hampshire DES’s State Plan is for implementing and enforcing provisions at least as protective as the EPA EGs applicable to existing Large and Small MWC units.

DATES: This direct final rule will be effective November 3, 2014, unless EPA receives adverse comments by October 3, 2014. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–

R01–OAR–2012–0260 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *Email:* mcdonnell.ida@epa.gov

3. *Fax:* (617) 918–0653.

4. *Mail:* “Docket Identification Number EPA–R01–OAR–2012–0260,” Ida E. McDonnell U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Ida E. McDonnell, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2012–0260. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *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 through *www.regulations.gov*, or email, information that you consider to be CBI or otherwise protected. The *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 email comment directly to EPA without going through *www.regulations.gov* your email 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 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 www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the New Hampshire Department of Environmental Services, Air Resources Division, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

FOR FURTHER INFORMATION CONTACT: Patrick Bird, Air Permits, Toxics, & Indoor Programs Unit, Air Programs Branch, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: OEP05-2, Boston, MA, 02109-0287. The telephone number is (617) 918-1287. Mr. Bird can also be reached via electronic mail at bird.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

- I. What Is a State Plan?
- II. Why Does EPA Need To Approve State Plans?
- III. Why Does EPA Regulate Air Emissions From MWCs?
- IV. What History Does New Hampshire DES Have With MWC State Plans?
- V. Why Did New Hampshire DES Submit a Revised MWC State Plan?
- VI. What Revisions Have Been Made to the State Plan?
- VII. Why Is EPA Approving New Hampshire DES's Revised State Plan?
- VIII. Final Action
- IX. Statutory and Executive Order Reviews

I. What is a State plan?

Clean Air Act (CAA) section 111, which Congress enacted as part of the 1970 CAA Amendments, establishes mechanisms for controlling emissions of air pollutants from stationary sources. This provision requires EPA to promulgate a list of categories of stationary sources that the Administrator, in his or her judgment, finds “causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.” Once EPA lists a source category, EPA must, under CAA section 111(b)(1)(B), establish “standards of performance” for emissions of air pollutants from new sources in the source category. These standards are known as new source performance standards (NSPS), and they are national requirements that apply directly to the sources subject to them.

When the EPA establishes NSPS for new sources in a particular source category, the EPA is also required, under CAA section 111(d)(1), to prescribe regulations for states to submit plans regulating existing sources in that source category for any air pollutant that, in general, is not regulated under the CAA section 109 requirements for the national ambient air quality standards (NAAQS) or regulated under the CAA section 112 requirements for hazardous air pollutants (HAP). In contrast with CAA section 111(b), which provides for direct federal regulation of new sources, section 111(d)'s mechanism for regulating existing sources provides that states will submit plans that establish “standards of performance” for the affected existing sources and that contain other measures to implement and enforce those standards.

II. Why does EPA need to approve State plans?

Under section 129 of the CAA, EGs are not federally enforceable. Section 129(b)(2) of the CAA requires states to submit state plans to EPA for approval. Each state must show that its state plan will carry out and enforce the EGs. State plans must be at least as protective as the EGs and will become federally enforceable upon EPA's approval. The procedures for adopting and submitting state plans are in 40 CFR Part 60, Subpart B.

III. Why does EPA regulate air emissions from MWCs?

When burned, municipal solid wastes emit various air pollutants, including hydrochloric acid, dioxin/furan, toxic metals (lead, cadmium, and mercury)

and particulate matter. Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious human health effects, primarily to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occur mainly through eating of fish. When inhaled, mercury vapor attacks the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.¹

Exposure to particulate matter can aggravate existing respiratory and cardiovascular disease and increase risk of premature death.² Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.³

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis.⁴

IV. What history does New Hampshire DES have with MWC State plans?

On August 16, 2002, New Hampshire Department of Environmental Services (DES) submitted a CAA section 111(d)/129 State Plan for implementing and enforcing EGs for existing large and

¹ U.S. Environmental Protection Agency. *Mercury Report to Congress, Volume V: Health Effects of Mercury and Mercury Compounds* (EPA-452/R-97-007) and *Volume VI: An Ecological Assessment for Anthropogenic Mercury Emissions in the United States* (EPA-452/R-97-008). U.S. EPA Office of Air Quality, Planning, and Standards and Office of Research and Development. Washington, DC, 1997.

² U.S. Environmental Protection Agency. *Integrated Science Assessment for Particulate Matter* (EPA/600/R-08/139F). U.S. EPA Office of Air and Radiation. Washington, DC, 2009.

³ U.S. Environmental Protection Agency. *Integrated Risk Information System (IRIS) on Hydrogen Chloride*. U.S. EPA National Center for Environmental Assessment and Office of Research and Development. Washington, DC, 1999.

⁴ U.S. Environmental Protection Agency. *Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-P-Dioxin (TCDD) and Related Compounds* (EPA/600/BP-92/001a). U.S. EPA Office of Research and Development. Washington, DC, 1994.

small municipal waste combustors (MWCs) pursuant to 40 CFR Part 60, Subpart Cb and BBBB, respectively. New Hampshire DES combined the requirements of 40 CFR Part 60, Subpart Cb and BBBB into a single plan and enforceable mechanism, New Hampshire Code of Administrative Rules Env-A 3300 *Municipal Waste Combustion* (Env-A 3300), which included the differing emissions limits for large and small MWCs.

New Hampshire DES's State Plan was analyzed by EPA. The Plan included all necessary elements of an approvable CAA section 111(d)/129 state plan, including: identification of legal authority; identification of enforceable state mechanisms for implementing plan; inventory of affected sources; inventory of emissions from affected sources; emissions limitations for affected sources; compliance schedule; and testing, monitoring, recordkeeping, and reporting requirements. EPA approved the New Hampshire DES State Plan on February 10, 2003 (68 FR 6630).

V. Why did New Hampshire DES submit a revised MWC State plan?

Section 129(a)(5) of the CAA requires EPA to conduct a 5-year review of NSPS and EGs for solid waste incinerators and amend standards and requirements as appropriate. Accordingly, EPA promulgated amended standards and requirements for Large MWCs on May 10, 2006 (71 FR 27324). This rulemaking included revised limits for dioxin/furan (only for units equipped with electrostatic precipitators), mercury, cadmium, lead, particulate matter, and nitrogen oxides (for some types of units). It also contained revisions to the compliance testing provisions to require increased data availability from continuous emissions monitoring systems (CEMS). CEMS are required to generate at least ninety-five percent (95%) data availability on a calendar year basis and at least ninety percent (90%) data availability on a calendar quarter basis. The compliance testing provisions have also been revised to allow the optional use of CEMS to monitor particulate matter and mercury. Other revisions include:

- Operator stand-in provisions to clarify how long a shift supervisor is allowed to be off site when a provisionally certified control room operator is standing in;
- An eight-hour block average for measuring activated carbon injection rate;
- A provision for waiver of operating parameter limits during the mercury performance test and for two weeks

preceding the test, as is already allowed for dioxin testing;

- A revision to relative accuracy criteria for sulfur dioxide and carbon monoxide CEMS;
- Flexibility to the annual compliance testing schedule so that a facility tests once per calendar year, but no less than nine months and no more than 15 months since the previous test;
- Allowing use of parametric monitoring limits from an exceptionally well-operated MWC unit to be applied to all identical units at the same plant site without retesting for dioxin;
- The option of monitoring the activated carbon injection pressure or equivalent parameter; and
- Clarifying the exclusion of monitoring data from compliance calculations.

In addition to EPA's amended standards and requirements for Large MWCs, the New Hampshire General Court enacted more stringent emission limits for Small MWCs, codified at New Hampshire Revised Statutes Annotated 125-C:10-a, in 2005. The limits took effect January 1, 2006.

In response to the actions described above, New Hampshire DES submitted a revised State Plan to EPA on January 29, 2009. The formal submittal was accompanied by minor technical amendments submitted to EPA on February 13, 2009. EPA is taking action on the January 29, 2009 State Plan revision and the February 13, 2009 amendments in today's **Federal Register**.

VI. What revisions have been made to the State plan?

New Hampshire DES amended the emission limits for Large MWCs in Env-A 3300 to be consistent with EPA's amended EGs. Amendments to operating practices, training and certification, testing and monitoring, and reporting and recordkeeping were incorporated into Env-A 3300 by reference, as Env-A 3300 references specific citations in EPA's Large MWC EGs.

Sections of Env-A 3300 were revised to reflect name/numbering changes made to other New Hampshire DES rules cross-referenced in Env-A 3300. Instances where reference was made to Env-Wm 2705.07 and Env-Wm 3300 were changed to Env-Sw 1005.07 and Env-Sw 1600, respectively. These changes account for the name/numbering changes in the cross-referenced sections.

Env-A 3306.01 was revised to make reference to Env-A 808, *Continuous Emission Monitoring*, which has the effect of increasing the minutes of data

for a valid hourly average beyond what is required in EPA's Large MWC EGs. This revision strengthens the requirements of the Plan's enforceable mechanism.

New Hampshire DES also submitted revised emission limits for Small MWCs, which are more stringent than the federal limits pursuant to 40 CFR part 60, Subpart BBBB. The New Hampshire General Court enacted the more stringent emission limits, codified at New Hampshire Revised Statutes Annotated 125-C:10-a, in 2005. The emission limits took effect January 1, 2006. New Hampshire DES submitted the more stringent emission limits as part of its revised State Plan.

New Hampshire DES's January 29, 2009 submittal did not change the NOx emission standard for mass burn rotary waterwall MWCs in Env-A 3300 as there is no such facility within the jurisdiction of New Hampshire DES that operates with this specified technology. As such, on February 13, 2009, New Hampshire DES submitted an amendment to the State Plan for MWCs, which redacted the NOx standards for mass burn rotary waterwall units in Env-A 3300.

New Hampshire DES's final revised State Plan for MWCs includes all revisions submitted on January 29, 2009 and the amendment submitted on February 13, 2009.

VII. Why is EPA approving New Hampshire DES's revised State plan?

EPA has evaluated the revised State Plan for MWCs submitted by New Hampshire DES for consistency with the CAA and EPA guidelines and policies. EPA has determined that New Hampshire DES's State Plan for Large and Small MWCs meets or exceeds all requirements and, therefore, EPA is approving New Hampshire DES's State Plan to implement and enforce the EGs, as they apply to existing Large and Small MWCs within the jurisdiction of New Hampshire DES.

EPA's approval of New Hampshire's State Plan is based on our findings that:

1. New Hampshire DES provided adequate public notice of public hearings for the proposed rulemaking that allows New Hampshire to carry out and enforce provisions that are at least as protective as the EGs for Large and Small MWCs, and;

2. New Hampshire DES demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine

compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

VIII. Final Action

EPA is approving New Hampshire's revised State Plan for existing Large and Small MWCs. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. This rule will be effective November 3, 2014 without further notice unless the Agency receives relevant adverse comments by October 3, 2014.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 3, 2014 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IX. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve 111(d)/129 plan submissions that comply with the provisions of the CAA and applicable Federal regulations. 40 CFR 62.02(a). Thus, in reviewing 111(d)/129 plan 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 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 State Plan 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.

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).

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 3, 2014. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action 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, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: July 11, 2014.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 62 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

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

Authority: 42 U.S.C. 7401–7671q.

Subpart EE—New Hampshire

■ 2. Section 62.7325 is amended by adding paragraph (b)(4)(i) and (ii) to read as follows:

§ 62.7325 Identification of Plan.

* * * * *

(b) * * *

(4) * * *

(i) Revised State Plan for Large and Small Municipal Waste Combustors was submitted on January 29, 2009, with a technical amendment submitted on February 13, 2009. Revisions included

amendments to New Hampshire Code of Administrative Rules Env-A 3300 *Municipal Waste Combustion* in response to amended emission guidelines for Large MWCs (40 CFR Part 60, Subpart Cb) published on May 10, 2006 and emission limits for Small MWCs enacted by the New Hampshire General Court in 2005 and codified at New Hampshire Revised Statutes Annotated 125-C:10-a.

(ii) [Reserved]

* * * * *

[FR Doc. 2014-20803 Filed 9-2-14; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R09-OAR-2014-0266; FRL-9916-11-Region 9]

Designation of Areas for Air Quality Planning Purposes; State of Arizona; Pinal County and Gila County; Pb

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In accordance with section 107(d) of the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is redesignating the Hayden area, which encompasses portions of southern Gila and eastern Pinal counties, Arizona, from “unclassifiable” to “nonattainment” for the 2008 national ambient air quality standards (“NAAQS” or “standards”) for lead (Pb). EPA’s redesignation of the Hayden area is based on recorded violations of the Pb standards at the Arizona Department of Environmental Quality’s (ADEQ’s) Globe Highway monitoring site, located near the towns of Hayden and Winkelman, Arizona, and additional relevant air quality information. The effect of this action will be to redesignate the Hayden area to nonattainment for the Pb standards and thereby to impose certain planning requirements on the State of Arizona to reduce Pb concentrations within the Hayden area, including, but not limited to, the requirement to submit, within 18 months of redesignation, a revision to the Arizona state implementation plan (SIP) that provides for attainment of the Pb standards as expeditiously as practicable, but no later than five years after the effective date of this redesignation.

DATES: This rule is effective on October 3, 2014.

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

No. EPA-R09-OAR-2014-0266.

Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3964, vagenas.ginger@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

Table of Contents

- I. Background and Summary of EPA’s Proposed Action
- II. Response to Comments on the Proposed Rule
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background and Summary of EPA’s Proposed Action

EPA revised the primary (health-based) Pb NAAQS on October 15, 2008, lowering it from the 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) level set in 1978 to a level of 0.15 $\mu\text{g}/\text{m}^3$. The secondary (welfare-based) standard was revised to be identical in all respects to the primary standard. See 73 FR 66964, November 12, 2008. An area violates the revised standards if any arithmetic 3-month mean (hereafter referred to as “average”) concentration measured within the preceding three years is greater than 0.15 $\mu\text{g}/\text{m}^3$. EPA also expanded the Pb monitoring network by requiring new monitors to be sited near sources emitting one ton or more of Pb per year by January 1, 2010 and in certain non-source oriented locations by January 1, 2011. In a separate, later action, we revised the Pb monitoring regulations to require monitors to be sited near non-airport sources emitting 0.5 tons or more of Pb per year. See 75 FR 81126, December 27, 2010.

Section 107(d) of the Clean Air Act (CAA or “Act”) establishes a process for making initial area designations when a NAAQS is revised. In general, states are required to submit designation recommendations to EPA within one

year of promulgation of a new or revised standard and EPA is required to complete initial designations within two years of promulgation. However, if EPA has insufficient information to promulgate designations, it can extend the period for initial designations for up to one year.

On November 8, 2011, EPA completed its initial designations for the revised Pb standards.¹ Most of Arizona was designated unclassifiable/attainment for the Pb NAAQS. We designated the Hayden area, with the boundaries Arizona recommended,² as unclassifiable because there were available monitoring data recorded at ADEQ’s Globe Highway monitoring site indicating a significant likelihood that the area was violating the 2008 Pb NAAQS, but the available information was insufficient at that time to make a nonattainment designation.³ In our letter to Governor Brewer notifying her of our action, EPA explained that, should we subsequently determine that the Pb standards were being violated, we would initiate the process to redesignate the Hayden area to nonattainment.⁴

The CAA grants EPA the authority to change the designation of, or “redesignate,” areas in light of changes in circumstances. More specifically EPA has the authority under CAA section 107(d)(3) to redesignate areas (or portions thereof) on the basis of air quality data, planning and control considerations, or any other air quality-related considerations. In June 2013 we determined that quality assured, certified monitoring data collected in 2012 at the ADEQ Globe Highway monitor showed the area was violating the Pb NAAQS.⁵ Accordingly, on June 12, 2013, we notified Arizona that available Pb monitoring data indicated that the air quality designation for the Hayden area should be revised to nonattainment.

Governor Brewer responded on September 25, 2013, with a

¹ See 76 FR 72097, November 22, 2011.

² See 40 CFR 81.303 for a legal description of the boundary of the Hayden area.

³ Because of the form of the 2008 Pb NAAQS, one 3-month average ambient air concentration over 0.15 $\mu\text{g}/\text{m}^3$ is enough to cause a violation of the Pb NAAQS. ADEQ’s Globe Highway monitor registered four violations in 2011; however, at the time of designation the data had not been quality assured and certified and therefore we did not rely on them as the basis for a nonattainment designation.

⁴ Letter from Lisa P. Jackson, Administrator, U.S. EPA, to Janice K. Brewer, Governor of Arizona, dated November 8, 2011.

⁵ The ADEQ Globe Highway monitor recorded three violations of the Pb NAAQS in 2012. Three-month rolling average values violated the Pb standards for February–April, March–May, and April–June 2012.