

River, Boston Inner Harbor, for 100 yards upstream and downstream of the center of the Chelsea Street Draw span (in the approximate position of latitude 42°23'10.3" N., longitude 71°01'21.2" W.). [NAD83].

* * * * *

(b) * * *

(4) Restrictions when the Chelsea River channel is obstructed by vessel(s) moored at the Northeast Petroleum Terminal located downstream of the Chelsea Street Bridge on the Chelsea, MA side of the Chelsea River—hereafter referred to as the Jenny Dock (approximate position latitude 42°23'05.2" N., longitude 71°01'35.8" W.)—or the Mobile Oil Terminal located on the East Boston Side of the Chelsea River downstream of the Chelsea Street Bridge (approximate position latitude 42°23'04.9" N., longitude 71°01'28.5" W.): [NAD83].

* * * * *

§ 165.1407 [Amended]

■ 44. In § 165.1407(c)(2), following the numbers “(808) 842–2600” add “and (808) 842–2601, fax (808) 842–2624”.

PART 169—SHIP REPORTING SYSTEMS

■ 45. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1230(d), Department of Homeland Security Delegation No. 0170.1.

§ 169.1 [Amended]

■ 46. In § 169.1, add a note at the end of the current section to read as follows:

§ 169.1 What is the purpose of this part?

* * * * *

Note to § 169.1: For ship reporting system requirements not established by the Coast Guard, see 50 CFR Part 404.

Dated: June 3, 2009.

Stefan G. Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. E9–13370 Filed 6–9–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0415]

RIN 1625–AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, New Smyrna Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Coronado Beach Bridge (SR 44) across the Atlantic Intracoastal Waterway, mile 854, at New Smyrna Beach, FL. The deviation is necessary to repair the bridge. This deviation allows the bridge to remain closed to navigation during the deviation period.

DATES: This deviation is effective from 6 a.m. on June 30, 2009 through 6 a.m. on July 3, 2009.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0415 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0415 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Michael Lieberum, Bridge Branch, Seventh Coast Guard District, telephone 305–415–6744, e-mail Michael.b.lieberum@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: M&J Construction Company of behalf of the bridge owner, Florida Department of Transportation (FDOT), has requested a deviation to the regulation of the Coronado Beach/George C. Musson (SR 44) Bridge across the Atlantic Intracoastal Waterway, mile 854.0, New

Smyrna, FL. The bridge provides a vertical clearance of 24 feet in the closed position. As required by 33 CFR 117.261(h), the bridge shall open on signal, except that from 7 a.m. until 7 p.m., each day of the week, the draw need only open on the hour, twenty minutes past the hour and forty minutes past the hour. The deviation is from 6 a.m. on June 30, 2009 through 6 a.m. on July 3, 2009. During the deviation this bridge will remain closed to navigation. Vessels not requiring an opening may pass at any time. This action is necessary because the bridge will be inoperable in a jacked-up state to perform repairs. The action will affect all vessels requiring an opening during this time period. Vessels unable to transit through this area may transit via an ocean route or schedule their transit prior to or after the repair work is completed.

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: May 26, 2009.

R.S. Branham,

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

[FR Doc. E9–13640 Filed 6–9–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0004; FRL–8900–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to provisions in the Clean Air Act (Act) which allow EPA to correct State Implementation Plan (SIP) actions made in error, EPA is taking final action to correct an error in part of its June 12, 2006 approval of an amendment to Indiana’s ozone SIP. In today’s action, EPA is rescinding its approval of the inclusion of the state’s codified definition of hazardous air pollutant (HAP) in Indiana’s ozone SIP.

DATES: This final rule is effective on July 10, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2006–0004. 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 (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 at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, rosenthal.steven@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:

- I. What public comments were received on the proposed correction notice and what is EPA’s response?
- II. What action is EPA taking and what is the reason for this action?
- III. Statutory and Executive Order Reviews

I. What public comments were received on the proposed correction notice and what is EPA’s response?

EPA did not receive any public comments on the August 4, 2008, proposed correction notice.

II. What action is EPA taking and what is the reason for this action?

Section 110 of the Act is the authority under which Congress has directed EPA to act on SIPs and SIP revisions. Section 110(a) establishes the applicable procedures for SIP development and submission. The trigger for these activities is the promulgation of national ambient air quality standards (NAAQS); and the focus of the State’s efforts is to develop “a plan which provides for implementation, maintenance, and enforcement” of the NAAQS. Section 110(a)(1). EPA must then determine whether the submission contains the air quality-related components prescribed in Section 110(a)(2).

Other than for lead, which is both a HAP and criteria pollutant, Section 110

does not provide parameters to determine the approvability of a HAP provision. Instead, in the 1990 Amendments to the Act, Congress envisioned that HAPs (including the then-listed ethylene glycol monobutyl ether (EGBE)) would be regulated under Section 112. State programs for hazardous pollutants, including delegations, are governed by Section 112(l) of the Act. They should not be included in the SIP under Section 110.

Section 110(k)(6) of the Act provides that “whenever EPA determines that its action approving, disapproving, or promulgating any plan or plan revision (or part thereof), * * * was in error, EPA may revise such action as appropriate without requiring any further submission from the State.” Therefore, under section 110(k)(6), EPA is rescinding its exclusion of EGBE from Indiana’s definition of HAP, and is also rescinding Indiana’s definition of HAP in 326 IAC 1-2-33.5, from Indiana’s ozone SIP.

On June 12, 2006, as requested by the State, EPA took action under section 110(a) of the Act and deleted EGBE from the SIP’s definition for HAP in 326 IAC 1-2-33.5. For the reasons discussed above, EPA should not have taken this action under section 110(a) of the Act. On January 10, 2008, the Indiana Department of Environmental Management requested that EPA correct that earlier action.

III. Statutory and Executive Order Reviews

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 corrects an error and approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this final 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 corrects an error and approves preexisting 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 final 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 final 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 corrects an error and approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the 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 is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the 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 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.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This correction to 40 CFR 52 for Indiana is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 10, 2009. 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 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, Intergovernmental relations, Ozone, Hazardous air pollutants, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 22, 2009.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

- 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 P—Indiana

- 2. Section 52.770 is amended by revising paragraph (c)(176) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(176) On December 21, 2005, Indiana submitted revised regulations to the EPA. As a result, the compounds, 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane, 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate, are added to the list of "nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds" in 326 IAC 1–2–48 and these compounds are deleted from the list of VOCs in 326 IAC 1–2–90. Companies producing or using the four compounds will no longer need to follow the VOC

rules for these compounds. The requirements in 326 IAC 1–2–48 and 1–2–90 were also modified for the compound t-butyl acetate. It is not considered a VOC for emission limits and content requirements. T-butyl acetate will still be considered a VOC for the recordkeeping, emissions reporting, and inventory requirements.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 1: General Provisions, Rule 2: Definitions, Section 48:

“Nonphotochemically reactive hydrocarbon” or “negligibly photochemically reactive compounds” defined”, and Section 90: “Volatile organic compound” or “VOC” defined”. Filed with the Secretary of State on October 20, 2005 and effective November 19, 2005. Published in 29 *Indiana Register* 795–797 on December 1, 2005.

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[FR Doc. E9–13486 Filed 6–9–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R04–OAR–2008–0159(b); FRL–8912–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; City of Memphis, TN; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the Clean Air Act (CAA) section 111(d)/129 State Plan submitted by the Memphis-Shelby County Health Department (MSCHD) for the City of Memphis, Tennessee on February 16, 2006 (State Plan). The State Plan is for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units that commenced construction on or before June 20, 1996.

DATES: This direct final rule will be effective August 10, 2009, unless EPA receives adverse comments by July 10, 2009. If adverse comments are received, EPA 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 Regional Material in EDocket (RME) by Docket ID No. EPA–R04–OAR–2008–0159 by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Agency Web site:* <http://docket.epa.gov/rmepub/RME>, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Follow the online instructions for submitting comments.

3. *E-mail:* louis.egide@epa.gov.

4. *Fax:* (404) 562–9095.

5. *Mail:* “EPA–R04–OAR–2008–0159,” Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

6. *Hand Delivery or Courier:* Deliver your comments to: Dr. Egede N. Louis, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 12th Floor, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. 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 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to RME ID No. EPA–R04–OAR–2008–0159. 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://docket.epa.gov/rmepub/>, 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 RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are “anonymous access” systems, 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 RME or [regulations.gov](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