

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2010-0869; Airspace  
Docket No. 10-AEA-21]

**Revocation of Class E Airspace;  
Kutztown, PA**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action removes Class E Airspace at Kutztown, PA. The Kutztown Airport has been abandoned and therefore controlled airspace associated with the airport is being removed.

**DATES:** *Effective date:* 0901 UTC, June 30, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Richard Horrocks, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5588.

**SUPPLEMENTARY INFORMATION:****History**

The FAA received a notice from its Aeronautical Products office that the Kutztown Airport, PA, has been listed as abandoned as per NFDD09-240 (12/16/2009). After evaluation it was decided the Class E airspace associated with the Kutztown Airport is no longer required.

Since this action eliminates the impact of controlled airspace on users of the National Airspace System in the vicinity of the Kutztown Airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E designation listed in this document will be removed from publication subsequently in the Order.

**The Rule**

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 removes Class E airspace at Kutztown Airport, Kutztown, PA, as the airport has been abandoned and all instrument approach procedures cancelled.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it removes controlled airspace at Kutztown, PA.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Amended]**

- 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and

effective September 15, 2010, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**AEA PA E5 Kutztown, PA [Removed]**

Issued in College Park, Georgia, on April 1, 2011.

**Mark D. Ward,**

*Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

[FR Doc. 2011-8538 Filed 4-11-11; 8:45 am]

**BILLING CODE 4910-13-P**

**FEDERAL TRADE COMMISSION****16 CFR Part 305****RIN 3084-AB03****Appliance Labeling Rule**

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Final rule.

**SUMMARY:** The Commission extends the effective date for its new light bulb labeling requirements to January 1, 2012, to provide manufacturers with additional compliance time. In addition, the Commission exempts from the new label requirements incandescent bulbs that will not be produced after January 1, 2013, due to Federal efficiency standards.

**DATES:** The amendments published in this document will become effective on January 1, 2012. In addition, the July 19, 2011 effective date announced at 75 FR 41696 (July 19, 2010) is delayed until January 1, 2012.

**ADDRESSES:** Requests for copies of this document should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The complete record of this proceeding is also available at that address. Parts of the proceeding, including this document, are available at <http://www.ftc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M-8102B, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

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

In response to a petition from the National Electrical Manufacturers Association (NEMA), on December 29,

2010 (75 FR 81943), the Commission published a **Federal Register** Notice proposing to extend the effective date of new labeling rules for light bulbs to January 1, 2012.<sup>1</sup> The new labeling rules, originally scheduled to become effective on July 19, 2011, apply to general service lamps (*i.e.*, medium screw base incandescent, compact fluorescent (CFL), and light-emitting diode (LED) products) and feature a “Lighting Facts” label disclosing bulb brightness, annual energy cost, life, color appearance, and energy use.<sup>2</sup>

Based on concerns about the original deadline, NEMA asked the Commission to: (1) Extend the new label’s effective date for all covered bulbs, except CFLs, to January 1, 2012; (2) extend the effective date for CFLs to January 1, 2013; and (3) exempt all incandescent bulbs that will be phased out by 2014 due to revised Federal energy efficiency standards. After considering NEMA’s petition, as well as responses from the Natural Resources Defense Council and Earthjustice, the Commission proposed extending the effective date for all covered bulbs to January 1, 2012, and exempting bulbs phased out by Federal efficiency standards in place by 2013 (*e.g.*, 75-watt bulbs). The proposal did not include NEMA’s request for an additional extension for CFLs, nor did it exempt incandescent bulbs that will be phased out by the 2014 Federal efficiency standards (*i.e.*, 60- and 40-watt bulbs). The Commission received ten comments on these proposals.<sup>3</sup>

## II. Final Rule

The Commission extends the effective date for the new labeling requirements to January 1, 2012, for all covered bulbs

<sup>1</sup> This document uses the terms lamp, light bulb, and bulb interchangeably.

<sup>2</sup> 75 FR 41696 (Jul. 19, 2010). The Commission issued the new labels and established the original effective date of July 19, 2011 pursuant to the Energy Independence and Security Act of 2007 (Pub. L. 110–140) (EISA). EISA also established new minimum efficiency standards phasing out inefficient incandescent bulbs over a three year period (100-watt bulbs in 2012, 75-watt bulbs in 2013, and 60- and 40-watt bulbs in 2014). These new standards will increase the prevalence of more efficient incandescent halogen bulbs, CFLs, and LEDs. In the July 19, 2010 Notice, the Commission exempted 100-watt incandescent bulbs from the new label because they will remain on the market for only a short time.

<sup>3</sup> See <http://www.ftc.gov/os/comments/lightbulblablexten/index.shtm>. Unless otherwise stated, the comments discussed in this document refer to: Brickman (# 00005); Earthjustice (# 00009); Garcia (# 00002); IKEA of Sweden (# 00003); Leyn (# 00007); IMERC (# 00008); Natural Resources Defense Council (# 00011); NEMA (# 00010); Sood (# 00004); and VanPelt (# 00006). Several comments addressed issues not germane to the proposed extension such as the general merits of the Lighting Facts label. This Notice does not address these comments.

to provide manufacturers additional implementation time. The Commission is not providing an additional extension for CFLs because such a delay would deprive consumers of the new label’s benefits for these widely available high efficiency bulbs just as new efficiency standards become effective. Finally, consistent with its proposal, the Commission is not requiring the new label for incandescent bulbs phased out by 2012 and 2013 Federal efficiency standards (*i.e.*, 75-watt reflector bulbs and bulbs subject to 2012 DOE efficiency standards) but is requiring the new label for 60- and 40-watt bulbs subject to 2014 standards.<sup>4</sup>

### A. Extension of Effective Date for All Covered Bulbs

As proposed in the December 29, 2010 Notice, the final rule extends the effective date for all covered bulbs to January 1, 2012. The extension is warranted by legitimate industry concerns raised after the effective date was originally established.

In reaching this decision, the Commission considered several comments which found the proposed extension reasonable, another which found it too short, and others which found it too long. Specifically, IMERC, NRDC, IKEA of Sweden, and Universal Lighting Systems supported the proposed extension. Both IMERC and IKEA, for instance, argued that the extension is reasonable because, a wide variety of manufacturers need more time to re-label packages given the complexities of global supply chains.

However, NEMA argued that the extension only provides minimal relief to manufacturers and does not solve the difficulties outlined in its petition. NEMA noted that manufacturers and retailers conduct annual “product reviews,” which presumably involve the development of new or revised packaging, during the third quarter of the calendar year in advance of the retail “lighting season,” which takes place during the fourth and first quarters of the calendar year. Thus, according to NEMA, the proposed extension is effectively much shorter than six months because manufacturers must implement any packaging changes as part of their product reviews to complete them in time for the “lighting season.”

<sup>4</sup> NEMA’s petition also requested certain changes to the label’s formatting requirements, particularly for smaller packages. The Commission did not propose any changes in its December 29, 2010 Notice and, in response, received no comments seeking Rule changes. See 75 FR at 81946. Accordingly, this Notice does not address these issues.

Finally, Earthjustice argued against any extension, reiterating its earlier concerns that NEMA’s petition provided no new evidence justifying a delay, and asserting that the new label is necessary as soon as possible to help consumers make informed purchasing decisions.<sup>5</sup> Also, Earthjustice noted that NEMA’s petition demonstrates that manufacturers can meet the current effective date for LED and halogen products with no exceptions or delays, and thus no extension is warranted for these products.

The Commission adopts the proposed extension to address the logistical challenges industry faces in implementing the new label. As the Commission explained in the December 2010 Notice, and as detailed in NEMA’s petition, the large number of packaging styles involved, the difficulties posed by overseas manufacturing and packaging, and the extensive nature of the label changes required for each package weigh in favor of providing manufacturers with additional time to comply. In addition, the new January 1, 2012, effective date coincides with the effective date for new Federal efficiency standards that will begin to phase out inefficient incandescent bulbs. Thus, even with the extension, consumers will have the new label to help with this transition.

The Commission declines to grant NEMA’s request for additional time. As noted earlier, NEMA’s comments suggest that any package changes must be completed several months before January 1, 2012, to coincide with manufacturers’ “product reviews” in anticipation of the retail “lighting season.” However, NEMA offers no details about the “lighting season” and its impact on labeling. Indeed, NEMA only describes the season’s duration generally, stating that it covers “the 4th and 1st quarters of a calendar year.” This half-year window appears to give manufacturers sufficient time to revise bulb packaging. Manufacturers could complete package revisions by the January 1, 2012, label deadline and still introduce their products during the remaining three months of the “lighting season.” NEMA’s comment does not indicate otherwise. Nor did NEMA’s comment propose an alternative effective date that would alleviate its perceived problems.

Moreover, the Commission now has provided bulb manufacturers with considerable time to plan their

<sup>5</sup> Another comment (Brickman) also opposed any extension, arguing that the label is necessary to make consumers aware of the energy-saving benefits of CFLs and LEDs.

packaging changes. Specifically, the Commission provided initial notice of potential package changes in 2008, announced the details of those changes in June 2010, and recently proposed the extension it is now making final.

Finally, the Commission also declines to set an earlier effective date for LEDs and new incandescent halogen products as suggested by Earthjustice because an earlier date likely would have little impact on labeling for those products. As noted in the December 2010 Notice, manufacturers are likely to use the new label for these products as they enter the market over the next year. Thus, an earlier effective date for these products is not necessary.

#### *B. No Additional Extension for CFLs*

As proposed in the December 29, 2010 Notice, the Commission declines to extend the effective date for CFLs to January 1, 2013. Such a delay would deprive consumers of the new label's benefits for these widely-available bulbs during an important transition period. With the exception of NEMA, the commenters supported the Commission's proposal not to provide additional time for CFL labeling. NEMA reiterated its request for a CFL extension, but without providing additional information or argument.

As explained in the December 2010 Notice, further delaying the new CFL label would hinder consumers' ability to compare CFLs to new, efficient incandescent halogens and LEDs as those technologies become more available. Moreover, further delay for the market's most prevalent high efficiency bulbs may hamper ongoing efforts to help consumers understand the new label and use it in purchasing decisions. In addition, extending the effective date for all covered bulbs to January 1, 2012, along with the exemption of certain incandescent bulbs as discussed below in subsection C, should ease the burden of labeling CFLs.

#### *C. Incandescent Bulbs Subject to New Federal Efficiency Standards*

As proposed in the December 29, 2010 Notice, the final rule maintains the new Lighting Facts label for 60- and 40-watt incandescent bulbs but exempts from the label requirements 75-watt incandescent bulbs, and reflector bulbs that do not meet DOE's July 14, 2012, standards.<sup>6</sup>

<sup>6</sup> In its petition, NEMA had sought an exemption for 60- and 40-watt incandescent bulbs phased out by EISA efficiency standards effective January 1, 2014, and for 75-watt incandescent bulbs phased out by the EISA efficiency standards effective January 1, 2013. See 42 U.S.C. 6295(j). It also sought to exclude certain inefficient incandescent reflector

Industry commenters sought exemptions for all incandescents affected by the EISA standards, while other comments urged fewer exemptions than proposed. Specifically, NEMA restated that manufacturers have been reducing investment in incandescent products phased out by EISA and that new labeling requirements will force them to make additional capital investments in products that will soon exit the market. Similarly, Universal Lighting Systems explained that the general public already knows these bulbs are inefficient, and thus requiring new labeling for the short time these products remain available is unnecessary and a waste of resources.

In contrast, NRDC, Earthjustice, IMERC, and IKEA of Sweden urged the Commission to reconsider the proposed exemption for 75-watt bulbs. In particular, Earthjustice argued that the Commission has assigned unwarranted significance to the shorter time period the 75-watt bulb may be available after the new effective date.<sup>7</sup> Earthjustice also argued that the FTC should not consider the relatively low market share of 75-watt bulbs because the Commission has previously stated that 75-watt bulb labeling will benefit consumers. IMERC argued that NEMA failed to present sufficient information to make a compelling argument for the exemption.

In addition, citing the recent phase-out of 100-watt incandescent bulbs in California and Europe, NRDC asserted that 75-watt bulbs will remain on store shelves well after January 1, 2013, due to manufacturer and retailer stockpiling. Moreover, Earthjustice stated that, with the phase-out of 100-watt bulbs, consumers looking for the brightest bulbs would gravitate to 75-watt bulbs given their tendency to equate watts with brightness. Earthjustice asserted that the new label on 75-watt bulbs would help consumers in determining that such bulbs may, in fact, be less bright than some higher efficiency alternatives. Similarly, Earthjustice asserted that, without the new label, consumers will confuse old 75-watt (~1,100 lumen) bulbs with new 72-watt incandescent halogens that have a higher lumen rating.

Furthermore, NRDC also argued that the modest package revision cost

products that DOE efficiency regulations will eliminate on July 14, 2012. 10 CFR 430.32(n)(5). No comment opposed the exemption for these reflector bulbs.

<sup>7</sup> The Commission originally required labeling for 75-watt bulbs because these products would remain on the market for "more than a year" after the effective date. However, under the extended deadline, they will be manufactured for no more than one year after the new effective date.

associated with relabeling 75-watt bulbs would be offset by the economic and environmental benefits resulting from consumers using the new label to select more efficient bulbs, particularly given 75-watt bulbs' higher energy costs. Finally, NRDC and IKEA of Sweden noted that requiring the new label on inefficient incandescents may provide incentives to speed the phase out of incandescent bulbs prior to the effective date of the new efficiency standards.

After considering these comments, the Commission now exempts 75-watt and certain reflector bulbs as proposed in the December 2010 Notice. The new label is necessary for 60- and 40-watt bulbs because these bulbs may remain in production for two years after the new label's introduction and occupy a much greater market share than other inefficient incandescents such as 75-watt bulbs.<sup>8</sup> Moreover, the commenters offered no information to refute that the benefits to consumers of requiring the new label for 60- and 40-watt bulbs outweigh "reinvestment" concerns raised by NEMA.

Despite concerns raised by commenters, the Commission, as detailed below, does not believe the new label is warranted for 75-watt bulbs because they will remain available for a relatively short time and manufacturers can redirect resources to label other bulbs. When it issued the new labeling rule in July 2010, the Commission chose to require the new label for traditional incandescent bulbs remaining in production for more than a year after the Rule's effective date, including 75-watt bulbs, which would have stayed in production for a year and half after the original effective date. However, the new six-month extension shortens the period that 75-watt bulbs will remain in production after the effective date, reducing the benefits of re-labeling these soon-to-be obsolete products. As NRDC notes, 75-watt bulbs may continue to appear on store shelves even after the end of production. However, it is reasonable to assume that these bulbs will not be prevalent on shelves for an extended period given their limited market share, manufacturer

<sup>8</sup> According to past estimates, 75-watt bulbs account for only about 19% of the incandescent market compared to 58% for 60- and 40-watt bulbs. See [http://neep.org/uploads/Summit/2010%20Presentations/NEEP%20Lighting\\_Swope.pdf](http://neep.org/uploads/Summit/2010%20Presentations/NEEP%20Lighting_Swope.pdf). (DOE presentation using 2006 incandescent estimates). As comments suggest, some consumers may gravitate to 75-watt bulbs as the highest wattage bulb remaining on the market, confusing their wattage with light output. However, even if such confusion does arise, it should be minimal given the relatively small market share of these bulbs and the limited time period they will be available.

disinvestment in traditional incandescent technologies as indicated in NEMA's petition, and the increasing availability of more efficient incandescent halogen bulbs that have similar performance characteristics. Finally, the exemption will allow manufacturers to focus their labeling resources on products that will remain in the market well into the future, such as CFLs.

### III. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act (PRA).<sup>9</sup> OMB has approved the Rule's existing information collection requirements through May 31, 2011 (OMB Control No. 3084-0069). The amendments in this document will not increase and, in fact, likely will reduce somewhat the previously estimated burden for the lamp labeling amendments.

### IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule, and a Final Regulatory Flexibility Analysis (FRFA) with the final rule, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.<sup>10</sup>

The Commission does not anticipate that these amendments will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds. However, the Commission does not expect that the economic impact of the proposed amendments will be significant. If anything, the changes will reduce the Rule's burden on affected entities.

In its July 19, 2010 Notice (75 FR at 41711), the Commission estimated that the new labeling requirements will apply to about 50 product manufacturers and an additional 150 online and paper catalog sellers of covered products. The Commission expects that approximately 150 qualify as small businesses.

Although the Commission certified under the RFA that the amendments would not, if promulgated, have a

significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an FRFA in order to explain the impact of the amendments on small entities as follows:

#### A. Statement of the Need for, and Objectives of, the Amendments

Section 321(b) of the Energy Independence and Security Act of 2007 (Pub. L. 110-140) requires the Commission to conduct a rulemaking to consider the effectiveness of lamp labeling and to consider alternative labeling approaches. The Commission has issued an extension to the Rule's effective date to provide industry members with additional compliance time.

#### B. Issues Raised by Comments in Response to the IRFA

The Commission did not receive any comments specifically related to the impact of the final amendments on small businesses.

#### C. Estimate of Number of Small Entities to Which the Amendments Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, lamp manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees). Lamp catalog sellers qualify as small businesses if their sales are less than \$8.0 million annually. The Commission estimates that there are approximately 150 entities subject to the final rule's requirements that qualify as small businesses.<sup>11</sup>

#### D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The final amendments will not increase any reporting, recordkeeping, or other compliance requirements associated with the Commission's labeling rules (75 FR 41696). The amendments will only extend the effective date for complying with the new lamp's labeling requirements previously issued at 75 FR 41696. The final amendments will also exempt from those requirements incandescent bulbs that fail to meet Federal energy efficiency standards by 2013 (e.g., 75-watt bulbs).

#### E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other Federal statutes, rules, or

policies that would duplicate, overlap, or conflict with the final amendments.

#### F. Alternatives

The Commission sought comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the rule on small entities. In extending the effective date for the new labeling requirements and exempting certain bulbs from those requirements, the Commission is currently unaware of the need for special provisions to enable small entities to take advantage of the proposed extension or exemption. The Commission expects that the proposed amendments will reduce or defer, rather than increase, the economic impact of the rule's requirements for all entities, including small entities.

### V. Final Rule

#### List of Subjects in 16 CFR part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons discussed above, the Commission amends part 305 of title 16, Code of Federal Regulations, as follows:

#### **PART 305—RULE CONCERNING DISCLOSURES REGARDING ENERGY CONSUMPTION AND WATER USE OF CERTAIN HOME APPLIANCES AND OTHER PRODUCTS REQUIRED UNDER THE ENERGY POLICY AND CONSERVATION ACT ("APPLIANCE LABELING RULE")**

■ 1. The authority citation for part 305 continues to read as follows:

**Authority:** 42 U.S.C. 6294.

■ 2. In § 305.15, paragraph (c)(1) is revised to read as follows:

#### **§ 305.15 Labeling for lighting products.**

\* \* \* \* \*

(c)(1) Any covered incandescent lamp that is subject to and does not comply with the January 1, 2012 or January 1, 2013 efficiency standards specified in 42 U.S.C. 6295 or the DOE standards at 10 CFR 430.32(n)(5) effective July 14, 2012 shall be labeled clearly and conspicuously on the principal display panel of the product package with the following information in lieu of the labeling requirements specified in paragraph (b):

\* \* \* \* \*

<sup>9</sup> 44 U.S.C. 3501-3521.

<sup>10</sup> 5 U.S.C. 603-605.

<sup>11</sup> See 75 FR at 41712.

By direction of the Commission.

**Donald S. Clark,**  
Secretary.

[FR Doc. 2011-8689 Filed 4-11-11; 8:45 am]

BILLING CODE 6750-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2010-0139; FRL-9292-9]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving submittals from the District of Columbia (the District) pursuant to the Clean Air Act (CAA or the Act) sections 110(k)(2) and (3). These submittals address the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone and fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) and the 2006 PM<sub>2.5</sub> NAAQS. This final rule is limited to the following infrastructure elements which were subject to EPA's completeness findings pursuant to CAA section 110(k)(1) for the 1997 8-hour ozone NAAQS dated March 27, 2008, and the 1997 PM<sub>2.5</sub> NAAQS dated October 22, 2008: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

**DATES:** *Effective Date:* This final rule is effective on May 12, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-0139. 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 District of Columbia Department of the Environment, Air Quality Division, 51 N Street, NE., Fifth Floor, Washington, DC 20002.

**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 May 17, 2010 (75 FR 27512), EPA published a notice of proposed rulemaking (NPR) for the District. The NPR proposed approval of the District's submittals that provide the basic program elements specified in the CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) necessary to implement, maintain, and enforce the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS and the 2006 PM<sub>2.5</sub> NAAQS. The formal submittals submitted by the District Department of the Environment on December 6, 2007 and January 11, 2008 addressed the section 110(a)(2) requirements for the 1997 8-hour ozone NAAQS; the submittals dated August 25, 2008 and September 22, 2008 addressed the section 110(a)(2) requirements for the 1997 PM<sub>2.5</sub> NAAQS; and the submittal dated September 21, 2009 addressed the section 110(a)(2) requirements for the 2006 PM<sub>2.5</sub> NAAQS.

##### II. Summary of Relevant Submissions

The above referenced submittals address the infrastructure elements specified in the CAA section 110(a)(2). These submittals refer to the implementation, maintenance and enforcement of the 1997 8-hour ozone, the 1997 PM<sub>2.5</sub> NAAQS, and the 2006 PM<sub>2.5</sub> NAAQS. The rationale supporting EPA's proposed action is explained in the NPR and the technical support document (TSD) and will not be restated here. No public comments were received on the NPR. However, the portion of the TSD relating to section 110(a)(2)(D)(ii) is being revised because the TSD did not give the correct reason for the proposed approval. The TSD is available on line at <http://www.regulations.gov>, Docket number EPA-R03-OAR-2010-0139.

##### III. Final Action

EPA is approving the District's submittals that provide the basic program elements specified in CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) necessary to implement, maintain, and enforce the 1997 8-hour ozone and

PM<sub>2.5</sub> NAAQS and the 2006 PM<sub>2.5</sub> NAAQS.

EPA made completeness findings for the 1997 8-hour ozone NAAQS on March 27, 2008 (73 FR 16205) and on October 22, 2008 (73 FR 62902) for the 1997 PM<sub>2.5</sub> NAAQS. These findings pertained only to whether the submissions were complete, pursuant to section 110(k)(1)(A), and did not constitute EPA approval or disapproval of such submissions. Each of these findings noted that the District failed to submit a complete SIP addressing the portions of (C) and (J) relating to the Part C permit programs for the 1997 8-hour ozone and the 1997 PM<sub>2.5</sub> NAAQS.

The District has not submitted a permit program required under sections 110(a)(2)(C) and (J). Therefore, EPA is not approving the submissions with respect to sections 110(a)(2)(C) and (J) relating to the Part C permit programs for the 1997 8-hour ozone, the 1997 PM<sub>2.5</sub> NAAQS or the 2006 PM<sub>2.5</sub> NAAQS. However, these requirements with respect to the permit programs have already been addressed by a Federal Implementation Plan (FIP) that remains in place (see 40 CFR 52.499), and therefore this action will not trigger any additional FIP obligation with respect to this requirement.

Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These elements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection pertains to a permit program in Part D Title I of the CAA; and (2) any submissions required by section 110(a)(2)(I), which pertain to the nonattainment planning requirements of Part D Title I of the CAA. This action does not cover these specific elements. This action also does not address the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and 1997 PM<sub>2.5</sub> NAAQS, since they have been addressed by separate findings issued by EPA. See April 25, 2005 (70 FR 21147) and June 9, 2010 (75 FR 32673).

This notice does not take any action to approve or disapprove any existing state provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA