

Waterway, mile 87.4, at Bradenton Beach, FL. The deviation is necessary to facilitate repairs of the bascule leaves of the bridge. This deviation allows the bridge to conduct single-leaf operations while repairs are conducted. A two hour notice for double leaf operations will be required.

**DATES:** This deviation is effective from 7 a.m. on September 14, 2009 through 7 p.m. on December 31, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0829 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0829 in the "Keyword" box and then clicking "Search". They are 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](mailto: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:** Worth Contracting on behalf of Florida Department of Transportation, has requested a deviation to the regulations of the Cortez bridge across the Gulf Intracoastal Waterway as required by 33 CFR 117.287(d)(1) Cortez (SR 684) Bridge, mile 87.4. The draw shall open on signal, except that from 6 a.m. to 7 p.m., the draw need only open on the hour, 20 minutes after the hour, and 40 minutes after the hour. From January 15 to May 15, from 6 a.m. to 7 p.m., the draw need only open on the hour and half-hour. To facilitate the repair of the bascule leaves, one leaf will be allowed to remain in the closed position upon signal from a vessel, except with a three hour notification to the bridge tender for a double-leaf opening. This deviation effectively reduces the horizontal clearance of 90 feet by half for vessels requiring an opening. Vessels not requiring an opening may pass at anytime. This action will affect a limited number of vessels as the ability to use the full 90 foot horizontal clearance is available with a two hour notification. This action is necessary to allow Worth Contracting to conduct necessary repairs to the bascule leaves safely and efficiently.

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: November 6, 2009.

**Scott A. Buschman,**

*Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.*

[FR Doc. E9-28909 Filed 12-3-09; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-RO4-OAR-2009-0793; FRL-9089-2]

### Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants; Plywood and Composite Wood Products

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

**ACTION:** Direct final rule.

**SUMMARY:** On August 26, 2003, the EPA published in the **Federal Register** a direct final rule to approve the North Carolina Department of Environment and Natural Resource's (NC DENR) equivalency by permit program, pursuant to section 112(l) of the Clean Air Act, to implement and enforce State permit terms and conditions that substitute for the National Emissions Standards for Hazardous Air Pollutants from the pulp and paper industry for the International Paper Riegelwood mill in Riegelwood, North Carolina. Then, on April 12, 2004, the EPA published in the **Federal Register** a direct final rule to amend the August 26, 2003, direct final rule in order to extend its coverage to include an additional four mills in North Carolina. This action is taken to once again amend the August 26, 2003, direct final rule in order to expand the NC DENR equivalency by permit program coverage to include all 32 sources in North Carolina subject to the plywood and composite wood products rule.

**DATES:** This direct final rule is effective February 2, 2010 without further notice, unless EPA receives adverse comment by January 4, 2010. If adverse comment is 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 Docket ID No. EPA-RO4-

OAR-2009-0793 by one of the following methods:

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

2. *E-mail:* [page.lee@epa.gov](mailto:page.lee@epa.gov).

3. *Fax:* 404-562-9095.

4. *Mail:* "EPA-RO4-OAR-2009-0793", 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.

5. *Hand Delivery or Courier:* Lee Page, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 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 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-RO4-OAR-2009-0793. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "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 <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA

Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the 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. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lee Page, 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. The telephone number is (404) 562-9131. Mr. Page can also be reached via electronic mail at [page.lee@epa.gov](mailto:page.lee@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On April 15, 1998, the Environmental Protection Agency (EPA) promulgated the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry (see 63 FR 18504) which was codified in 40 CFR part 63, subpart S, "National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry." Subsequently, on January 12, 2001, EPA promulgated the National Emission Standard for Hazardous Air Pollutants from the Pulp and Paper Industry (see 66 FR 3180) which has been codified in 40 CFR part 63, subpart MM, "National Emission Standards for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-alone Semi-chemical Pulp Mills."

On March 4, 2003, the North Carolina Department of Environment and Natural Resources (NC DENR) requested approval of their program to implement and enforce approved alternative title V

permit terms and conditions for certain sources in place of the otherwise applicable requirements of subpart S and subpart MM under the equivalency by permit process outlined in 40 CFR section 63.94.

On August 26, 2003, the EPA published in the **Federal Register** a direct final rule to approve the NC DENR equivalency by permit program, pursuant to section 112(l) of the Clean Air Act, to implement and enforce State permit terms and conditions that substitute for subpart S and subpart MM, for the International Paper Riegelwood Mill in Riegelwood, North Carolina.

On February 6, 2004, NC DENR requested that EPA amend the list of approved facilities to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable requirements of subpart S and subpart MM to include four additional mills. This request was approved by EPA and published in the **Federal Register** on April 12, 2004.

On September 21, 2009, NC DENR requested that EPA amend the original equivalency by permit program approval (*i.e.*, the August 26, 2003, program approval) to expand its coverage to all 32 sources subject to the National Emission Standard for Hazardous Air Pollutants-Plywood and Composite Wood Products, as promulgated on July 30, 2004, and codified in 40 CFR part 63, subpart DDDD. EPA received this request on September 25, 2009.

##### **II. Discussion**

Under CAA section 112(l), EPA may approve State or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (see 65 FR 55810, dated September 14, 2000). Under these regulations, a state or local air pollution control agency has the option to request EPA's approval to substitute alternative requirements and authorities that take the form of permit terms and conditions instead of source category regulations. This option is referred to as the equivalency by permit (EBP) option. To receive EPA approval using this option, the requirements of 40 CFR 63.91 and 63.94 must be met.

The EBP process comprises three steps. The first step (see 40 CFR 63.94(a) and (b)) is the "up-front approval" of the state EBP program. The second step (see 40 CFR 63.94(c) and (d)) is EPA

review and approval of the state alternative section 112 requirements in the form of pre-draft permit terms and conditions. The third step (see 40 CFR 63.94(e)) is incorporation of the approved pre-draft permit terms and conditions into a specific title V permit and the title V permit issuance process itself. The final approval of the State alternative requirements that substitute for the Federal standard does not occur for purposes of the Act, section 112(l)(5), until the completion of step three.

The purpose of step one, the "up-front approval" of the EBP program, is three fold: (1) It ensures that NC DENR meets the 63.91(b) criteria for up-front approval common to all approval options; (2) it provides a legal foundation for NC DENR to replace the otherwise applicable Federal section 112 requirements with alternative, federally enforceable requirements that will be reflected in final title V permit terms and conditions; and (3) it delineates the specific sources and Federal emission standards for which NC DENR will be accepting delegation under the EBP option.

Under §§ 63.94(b) and 63.91, NC's request for EBP program approval was required to include the identification of the sources and the source categories for which the state is seeking authority to implement and enforce alternative requirements, as well as a one time demonstration that the State has an approved title V operating permit program that permits the affected sources. There are no limitations on the number of sources in a source category for which the State can seek authority to implement and enforce alternative requirements.

##### **III. Final Action**

After reviewing the request to expand the coverage of NC DENR's EBP program for subpart DDDD, EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.94. Accordingly, EPA approves NC DENR's request to implement and enforce alternative requirements in the form of title V permit terms and conditions for New South Lumber Company, Inc. Graham Plant, Alamance County, North Carolina; HDM Furniture Industries, Inc., Henredon Furniture Plant 1 & 2, Burke County, North Carolina; Kohler Co., DBA Baker Furniture, Burke County, North Carolina; Bernhardt Furniture Company Plants 3 & 7, Caldwell County, North Carolina; Thomasville Furniture Industries, Inc., Lenoir Plant, Caldwell County, North

Carolina; Kincaid Furniture Company, Inc., Plant No. 1, Caldwell County, North Carolina; Hickory Chair Company, Catawba County, North Carolina; Uniboard USA LLC, Chatham County, North Carolina; Georgia Pacific Whiteville Plant, Columbus County, North Carolina; West Fraser, Inc., Armour Lumber Mill, Columbus County, North Carolina; Weyerhaeuser NR Company, New Bern Lumber Facility, Craven County, North Carolina; Linwood Furniture, Inc., Davidson County, North Carolina; Warvel Products, Inc., Davidson County, North Carolina; Thomasville Furniture Industries, Inc., Plant C/M/W/SB, Davidson County, North Carolina; Lexington Furniture Inc., Plant 5, Davidson County, North Carolina; Stanley Furniture Company, Inc., Graham County, North Carolina; Georgia Pacific, Creedmoor Chip-N-Saw Plant, Granville County, North Carolina; JELD-WEN, Inc., McDowell County, North Carolina; Weyerhaeuser NR Company, Martin County, North Carolina; Jordan Lumber & Supply Co., Montgomery County, North Carolina; Troy Lumber Co., Montgomery County, North Carolina; Unilin Flooring N.V., Montgomery County, North Carolina; West Fraser, Seaboard Lumber Mill, Northampton County, North Carolina; Georgia Pacific Roxboro, Person County, North Carolina; Louisiana Pacific Corp., Roxboro, Person County, North Carolina; Weyerhaeuser Company, Grifton, Pitt County, North Carolina; Vaughan Bassett Furniture Co., Elkin Furniture, Surry County, North Carolina; Weyerhaeuser NR Company, Elkin Facility, Surry County, North Carolina; Georgia Pacific Plywood/OSB/CNS, Dudley, Wayne County, North Carolina; Louisiana Pacific Corp., Roaring River, Wilkes County, North Carolina; and American Drew, Inc., Plant 13, Wilkes County, North Carolina, for subpart DDDD. This action is contingent upon NC DENR including in title V permits, terms and conditions that are no less stringent than the Federal standard. In addition, the requirement applicable to the sources and the "applicable requirement" for title V purposes remains the Federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal 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 section 112(l) provisions should adverse comments be filed. This rule will be effective February 2, 2010 without further notice unless the Agency receives adverse comments by January 4, 2010.

If the EPA receives such comments, then EPA will publish a document 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. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 2, 2010 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a section 112(l) delegation request that complies with the provisions of the Act and applicable Federal regulations. Thus, in reviewing section 112(l) submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely expands the previous EPA approved State program under section 112(l) 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 CAA; 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 action 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 February 2, 2010. 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 63**

Administrative practice and procedure, Air pollution control, National Emission Standards for Hazardous Air Pollutants, Hazardous air pollutants.

Dated: November 16, 2009.

**J. Scott Gordon,**

*Acting Regional Administrator, Region 4.*

■ Title 40, chapter I, part 63 of the *Code of Federal Regulations* is amended as follows:

**PART 63—[AMENDED]**

■ 1. The authority citation for part 63 continues to read as follows:

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

**Subpart E—Approval of State Programs and Delegation of Federal Authorities**

■ 2. Section 63.99 is amended by adding a new paragraph (a)(34)(iii) to read as follows:

**§ 63.99 Delegated Federal authorities.**

(a) \* \* \*

(34) \* \* \*

(iii) North Carolina Department of Environment and Natural Resources (NC DENR) may implement and enforce alternative requirements in the form of title V permit terms and conditions for New South Lumber Company, Inc. Graham Plant, Alamance County, North Carolina; HDM Furniture Industries, Inc., Henredon Furniture Plant 1 & 2, Burke County, North Carolina; Kohler Co., DBA Baker Furniture, Burke County, North Carolina; Bernhardt

Furniture Company Plants 3 & 7, Caldwell County, North Carolina; Thomasville Furniture Industries, Inc., Lenoir Plant, Caldwell County, North Carolina; Kincaid Furniture Company, Inc., Plant No. 1, Caldwell County, North Carolina; Hickory Chair Company, Catawba County, North Carolina; Uniboard USA LLC, Chatham County, North Carolina; Georgia Pacific Whiteville Plant, Columbus County, North Carolina; West Fraser, Inc., Armour Lumber Mill, Columbus County, North Carolina; Weyerhaeuser NR Company, New Bern Lumber Facility, Craven County, North Carolina; Linwood Furniture, Inc., Davidson County, North Carolina; Warvel Products, Inc., Davidson County, North Carolina; Thomasville Furniture Industries, Inc., Plant C/M/W/SB, Davidson County, North Carolina; Lexington Furniture Inc., Plant 5, Davidson County, North Carolina; Stanley Furniture Company, Inc., Graham County, North Carolina; Georgia Pacific, Creedmoor Chip-N-Saw Plant, Granville County, North Carolina; JELD-WEN, Inc., McDowell County, North Carolina; Weyerhaeuser NR Company, Martin County, North Carolina; Jordan Lumber & Supply Co., Montgomery County, North Carolina; Troy Lumber Co., Montgomery County, North Carolina; Unilin Flooring N.V., Montgomery County, North Carolina; West Fraser, Seaboard Lumber Mill, Northampton County, North Carolina; Georgia Pacific Roxboro, Person County, North Carolina; Louisiana Pacific Corp., Roxboro, Person County, North Carolina; Weyerhaeuser Company, Grifton, Pitt County, North Carolina; Vaughan Bassett Furniture Co., Elkin Furniture, Surry County, North Carolina; Weyerhaeuser NR Company, Elkin Facility, Surry County, North Carolina; Georgia Pacific Plywood/OSB/CNS, Dudley, Wayne County, North Carolina; Louisiana Pacific Corp.,

Roaring River, Wilkes County, North Carolina; and American Drew, Inc., Plant 13, Wilkes County, North Carolina, for subpart DDDD of this Part-National Emissions Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products. This action is contingent upon NC DENR including, in title V permits, terms and conditions that are no less stringent than the Federal standard. In addition, the requirements applicable to the sources remain the Federal section 112 requirements until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

\* \* \* \* \*

[FR Doc. E9-28969 Filed 12-3-09; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-HQ-SFUND-2008-0575, EPA-HQ-SFUND-2008-0576, EPA-HQ-SFUND-2008-0577, EPA-HQ-SFUND-2008-0585, EPA-HQ-SFUND-2008-0580, EPA-HQ-SFUND-2008-0581, EPA-HQ-SFUND-2008-0582, EPA-HQ-SFUND-2008-0583, EPA-HQ-SFUND-2008-0083, FRL-8790-1]

**RIN 2050-AD75**

**National Priorities List, Final Rule No. 46**

*Correction*

In rule document E9-7825 beginning on page 16126 in the issue of Thursday, April 9, 2009 make the following correction:

**Appendix B to Part 300 [Corrected]**

On page 16134, in Appendix B to Part 300, the table entitled **TABLE 1—GENERAL SUPERFUND SECTION** has been corrected to read as follows:

**TABLE 1—GENERAL SUPERFUND SECTION**

State	Site name	City/county	Notes <sup>a</sup>
FL	Arkla Terra Property	Thonotosassa.	*
FL	Raleigh Street Dump	Tampa.	*
IN	U.S. Smelter and Lead Refinery, Inc	East Chicago.	*
OH	Behr Dayton Thermal System VOC Plume	Dayton.	*
OH	New Carlisle Landfill	New Carlisle.	*