

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2012-0619; FRL-9754-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control of Stationary Generator Emissions

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Delaware Department of Natural Resources and Environmental Control (DNREC) State Implementation Plan (SIP). The revision amends Regulation 1102—PERMITS, Appendix A to provide permit exemptions for certain internal combustion engines. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on February 4, 2013 without further notice, unless EPA receives adverse written comment by January 3, 2013. If EPA receives such comments, it 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 Number EPA-R03-OAR-2012-0619 by one of the following methods:

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

B. *Email*: [cox.kathleen@epa.gov](mailto:cox.kathleen@epa.gov).

C. *Mail*: EPA-R03-OAR-2012-0619, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2012-0619. 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 information that you

consider to be CBI or otherwise protected through *www.regulations.gov* or email. 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Cathleen Van Osten, (215) 814-2746, or by email at [vanosten.cathleen@epa.gov](mailto:vanosten.cathleen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On April 29, 2008 (73 FR 23101), EPA approved a SIP revision containing provisions to control emissions from stationary generators. The revision added a new regulation, Regulation No. 1144—CONTROL OF STATIONARY GENERATOR EMISSIONS. The regulation established operating requirements, fuel sulfur content limits, and record keeping requirements for stationary generators.

##### II. Summary of SIP Revision

On November 1, 2007, the Delaware Department of Natural Resources and Environmental Control submitted a formal revision to its State Implementation Plan. The SIP revision contains amendments to Regulation No. 1102—PERMITS. This amendment clarifies the permitting requirements for owners of stationary generators, specifically adding certain internal combustion engines to the list of exempted sources in Appendix A, of Regulation No. 1102, List of Exempted Sources. The amendment exempts: (a) Any internal combustion engine associated with a stationary electrical generator that (1) has a standby power rating of 450 kilowatts or less that is used only during the times of emergency, (2) is located at any residence, or (3) is located at any commercial poultry producing premise, as these terms are defined in Regulation No. 1144; and (b) any internal combustion fuel burning equipment, which is not associated with a stationary electrical generator, and has an engine power rating of 450 horsepower (hp) or less.

##### III. Final Action

EPA is approving the Delaware SIP revision for Regulation No. 1102—PERMITS submitted on November 1, 2007. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 4, 2013 without further notice unless EPA receives adverse comment by January 3, 2013. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

##### IV. Statutory and Executive Order Reviews

###### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP 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 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 SIP 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.

#### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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).

#### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2013. 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, to amend Delaware's Regulation 1102—PERMITS, 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, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 6, 2012.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- 1. The authority citation for part 52 continues to read as follows:

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

#### **Subpart I—Delaware**

- 2. In § 52.420, the table in paragraph (c) is amended by revising the entry for Regulation 1102, Appendix A to read as follows:

#### **§ 52.420 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

#### **EPA-APPROVED REGULATIONS IN THE DELAWARE SIP**

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
* * *	* * *	* * *	* * *	* * *
1102 .....	Permits.			
* * *	* * *	* * *	* * *	* * *
Appendix A .....	[List of Permits Exemptions] ..	1/11/06 9/11/08	12/4/12 [ <i>Insert page number where the document begins</i> ].	Addition of paragraphs 32.0 and 33.0 (formerly gg. and hh. respectively).
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[FR Doc. 2012–29103 Filed 12–3–12; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 73

RIN 0920–AA34

#### Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Final rule; correction.

**SUMMARY:** The Department of Health and Human Services is correcting a final rule that appeared in the **Federal Register** on October 5, 2012 (77 FR 61084). The document updated the list of HHS and overlap biological agents and toxins and designated certain select agents and toxins as Tier 1 agents.

**DATES:** *Effective Date:* Effective December 4, 2012.

**FOR FURTHER INFORMATION CONTACT:** Robbin Weyant, Director, Division of Select Agents and Toxins, Centers for Disease Control and Prevention, 1600 Clifton Rd., MS A–46, Atlanta, GA 30333. Telephone: (404) 718–2000.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 2012–24389, published on October 5, 2012 (77 FR 61084) appearing on pages 61086 and 61110, the following corrections are made: Preamble [Corrected]

1. On page 61086, in the second column, second paragraph, beginning on the fourth line, “According to available reports, Lujo virus (1) caused a fatal outbreak of hemorrhagic fever, (2) has a case fatality rate of 80 percent, (3) has been phylogenetically identified as an arenavirus, and (4) is related to those members of the Old World arenaviridae family (Junin, Machupo, Sabia, Guanarito, and Lassa) listed as HHS select agents that cause hemorrhagic fever and pose a significant risk to public health and safety (Ref 2)” is corrected to read: “According to available reports, Lujo virus (1) caused a fatal outbreak of hemorrhagic fever, (2) has a case fatality rate of 80 percent, (3) has been phylogenetically identified as an arenavirus, and (4) is related to those members of the *Arenaviridae* family (Junin, Machupo, Sabia, Guanarito, and Lassa) listed as HHS select agents that cause hemorrhagic fever and pose a significant risk to public health and safety (Ref 2).”

#### § 73.0 [Corrected]

2. On page, 61110, in the second column, in § 73.0 (Applicability and related requirements), in paragraph one, “All individuals and entities that possess SARS-CoV, Lujo virus, or Chapare virus must provide notice to CDC regarding their possession of SARS-CoV, Lujo virus, or Chapare virus on or before November 5, 2012. Currently registered individuals and entities possessing SARS-CoV, Lujo virus, or Chapare virus must meet all the requirements of this part by December 4, 2012. All previously unregistered individuals and entities possessing SARS-CoV, Lujo virus, or Chapare virus must meet all of the requirements of this part by April 3, 2013 is corrected to read: “All individuals and entities that possess SARS-CoV, Lujo virus, or Chapare virus must provide notice to CDC regarding their possession of SARS-CoV, Lujo virus, or Chapare virus on or before December 4, 2012. Currently registered individuals and entities possessing SARS-CoV, Lujo virus, or Chapare virus must meet all the requirements of this part by December 4, 2012. All previously unregistered individuals and entities possessing SARS-CoV, Lujo virus, or Chapare virus must meet all of the requirements of this part by April 3, 2013.”

Dated: November 21, 2012.

**Kathleen Sebelius,**  
*Secretary.*

[FR Doc. 2012–28784 Filed 12–3–12; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA–2012–0003]

#### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the

National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) [Luis.Rodriguez3@fema.dhs.gov](mailto:Luis.Rodriguez3@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.