

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore we believe this rule should be categorically excluded, under figure 2–1, paragraph 34(g) from further environmental documentation. This rule establishes a regulated navigation area and as such is covered by this paragraph.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.923 to read as follows:

**§ 165.923 Regulated Navigation Area between mile markers 296.1 and 296.7 of the Chicago Sanitary and Ship Canal located near Romeoville, IL.**

(a) *Location.* The following is a Regulated Navigation Area: All waters of the Chicago Sanitary and Ship Canal, Romeoville, IL between the north side of Romeo Road Bridge Mile Marker 296.1, and the south side of the Aerial Pipeline Mile Marker 296.7.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.13 apply.

(2) All vessels are prohibited from loitering in the regulated navigation area.

(3) Vessels may enter the regulated navigation area for the sole purpose of transiting to the other side, and must maintain headway throughout the transit.

(4) All personnel on open decks must wear a Coast Guard approved Type I personal flotation device while in the regulated navigation area.

(5) Vessels may not moor or lay up on the right or left descending banks of the regulated navigation area.

(6) Towboats may not make or break tows in the regulated navigation area.

(7) Vessels may not pass (meet or overtake) in the regulated navigation area and must make a SECURITE call when approaching the barrier to announce intentions and work out passing arrangements on either side.

(8) Commercial tows transiting the regulated navigation area must be made up with wire rope to ensure electrical connectivity between all segments of the tow.

(c) *Compliance.* All persons and vessels shall comply with this rule and any additional instructions of the Ninth Coast Guard District Commander, or his designated representative. The Captain of the Port, Lake Michigan is a designated representative of the District Commander for the purposes of this rule.

Dated: December 19, 2005.

**R.J. Papp, Jr.,**  
Rear Admiral, U.S. Coast Guard, Commander,  
Ninth Coast Guard District.

[FR Doc. 05–24538 Filed 12–27–05; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R04–OAR–2005–AL–0001–200520a; FRL–8014–9]

#### Approval and Promulgation of Implementation Plans; Alabama; Nitrogen Oxides Budget and Allowance Trading Program, Phase II

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Alabama on February 23, 2005. The revision responds to the EPA’s regulation entitled, “Interstate Ozone Transport: Response to Court Decisions on the Nitrogen Oxides (NO<sub>x</sub>) SIP Call, NO<sub>x</sub> SIP Call Technical Amendments, and Section 126 Rules,” otherwise known as the “NO<sub>x</sub> SIP Call Phase II.” This revision satisfies EPA’s rule that requires Alabama to submit NO<sub>x</sub> SIP Call Phase II revisions needed to achieve the necessary incremental reductions of NO<sub>x</sub>. The intended effect of this SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the National Ambient Air Quality Standard (NAAQS) for ozone. The revision also corrects a typographical error and deletes an expired provision pertaining to open burning in Morgan County, Alabama in 2003.

**DATES:** This direct final rule is effective February 27, 2006 without further notice, unless EPA receives adverse comment by January 27, 2006. 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 Regional Material in EDocket (RME) ID No. R04–OAR–2005–AL–0001, 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 on-line instructions for submitting comments.

3. E-mail: [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

4. Fax: (404) 562-9019.

5. Mail: "R04-OAR-2005-AL-0001," Regulatory Development Section, Air Planning 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: Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, 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 to 4:30, excluding Federal holidays.

*Instructions:* Direct your comments to RME ID No. R04-OAR-2005-AL-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://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://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.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. 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 RME or in hard copy at the Regulatory Development Section, Air planning 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Stacy DiFrank, Regulatory Development Section, Air Planning 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) 562-9042. Ms. DiFrank can also be reached via electronic mail at [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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

On October 27, 1998, EPA published a final rule known as the "NO<sub>x</sub> SIP Call" (See 63 FR 57356). The NO<sub>x</sub> SIP Call requires 22 states, including the State of Alabama, and the District of Columbia (DC) to meet statewide NO<sub>x</sub> emission budgets during the ozone season in order to reduce the amount of ground level ozone that is transported across the eastern United States (Phase I). EPA identified NO<sub>x</sub> emission reductions by source category that could be achieved by suing cost-effective measures. The source categories include electric generating units (EGUs), non-electric generating units (non-EGUs), internal combustion (IC) engines, and cement kilns. EPA determined that state-wide NO<sub>x</sub> emission budgets based on the implementation of these cost effective controls for each affected jurisdiction are to be met by the year 2007. The Phase I NO<sub>x</sub> SIP Call gave states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. IC engines were not addressed by Alabama in response to Phase I, but are addressed in Phase II. For more information regarding the specifics of these Phase I source categories and budgets, see 66 FR 27047, May 16, 2001.

A number of parties, including certain States as well as industry and labor groups, challenged the NO<sub>x</sub> SIP Call rule. On March 2, 2000 (65 FR 11222), EPA published additional technical amendments to the NO<sub>x</sub> SIP Call in the **Federal Register**. On March 3, 2000, the D.C. Circuit issued its decision on the NO<sub>x</sub> SIP Call, ruling in favor of EPA on all the major issues. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000). The DC Circuit Court denied petitioners' requests for rehearing or rehearing en banc on July 22, 2000. However, the Circuit Court remanded four specific elements to EPA for further action: (1) The definition of EGU, (2) the level of control for stationary IC engines, (3) the geographic extent of the NO<sub>x</sub> SIP Call for Georgia and Missouri, and (4) the inclusion of Wisconsin. On March 5, 2001, the U.S. Supreme Court declined to hear an appeal by various utilities, industry groups and a number of upwind states from the DC Circuit's ruling on EPA's NO<sub>x</sub> SIP Call rule.

On October 13, 2000, the Alabama Department of Environmental Management (ADEM) submitted a draft NO<sub>x</sub> emission control rule to the EPA. On March 12, 2001, ADEM submitted final revisions to its SIP that complied with the requirements of the NO<sub>x</sub> SIP Call Phase I (see 66 FR 27047, May 16, 2001).

EPA published a final rule, dated April 21, 2004 (69 FR 21604), that addresses the remanded portion of the NO<sub>x</sub> SIP Call Rule. This rule is entitled, "Interstate Ozone Transport: Response to Court Decisions on the NO<sub>x</sub> SIP Call, NO<sub>x</sub> SIP Call Technical Amendments, and Section 126 Rules," otherwise known as the "NO<sub>x</sub> SIP Rule Phase II." This action finalizes specific changes in response to the Court's rulings on the NO<sub>x</sub> SIP Call. Specifically, it finalizes certain aspects of the definitions of EGU and non-EGU, the control level assumed for large stationary IC engines in the NO<sub>x</sub> SIP Call, partial State budgets for Georgia, Missouri, Alabama, and Michigan in the NO<sub>x</sub> SIP Call, changes to the statewide NO<sub>x</sub> budgets, the SIP submittal dates for the required States to address the Phase II portion of the budget, and for Georgia and Missouri to submit full SIPs meeting the NO<sub>x</sub> SIP Call and the exclusion of Wisconsin from the NO<sub>x</sub> SIP Call (See 69 FR 21604, April 21, 2004). This final rule also requires States that submitted NO<sub>x</sub> SIP Call Phase I revisions to submit Phase II SIP Revisions as needed to achieve the necessary incremental reductions of NO<sub>x</sub>.

Additional emission reductions required as a result of this final rulemaking are reflected in the Phase II

portion of the State's emission budget. On April 11, 2000, in response to the Court's decision, EPA notified Alabama of the maximum amount of NO<sub>x</sub> emissions allowed for the State during the ozone season. This emission budget reflected adjustments to Alabama's NO<sub>x</sub> emission budget to reflect the Court's decision that Georgia and Missouri should not be included in full. Although the Court did not order EPA to modify Alabama's budget, the EPA believes these adjustments are consistent with the Court's decision.

## II. Analysis of State's Submittal

The State of Alabama submitted a revision to its SIP on February 23, 2005. The revision responds to the NO<sub>x</sub> SIP Call Phase II (69 FR 21604, April 21, 2004). ADEM is revising its regulations to remain consistent with EPA requirements. The addition of the proposed regulation to Chapter 335-3-8, specifically Rule 335-3-8-.04, fulfills this requirement.

The NO<sub>x</sub> SIP Call Phase II (69 FR 21604) required NO<sub>x</sub> reductions for 4,968 tons for Alabama. However, upon further calculation it was determined that the required NO<sub>x</sub> reduction for Alabama is 4,895 tons.

The revision also includes changes to Rule 335-3-3. A typographical error is corrected in Rule 335-3-3-.01(2), changing the word "not" to "nor" in the second sentence and 335-3-3-.01(2)(d) is being revised to delete an expired provision pertaining to open burning in Morgan County in 2003.

## III. Final Action

EPA is approving the aforementioned changes to the SIP. EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial 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 SIP revision should adverse comments be filed. This rule will be effective February 27, 2006 without further notice unless the Agency receives adverse comments by January 27, 2006.

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 27, 2006 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 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 approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves pre-existing 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 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 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 approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air 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 rule is to approve state choices, provided that they meet the criteria of the Clean Air 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 Clean Air 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 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 27, 2006. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and

recordkeeping requirements, Volatile organic compounds.

Dated: December 9, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ Chapter I, Title 40, *Code of Federal Regulations*, 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 B—Alabama**

■ 2. Section 52.50(c) is amended by revising entries for “Section 335–3–

3.01” and “Section 335–3–8.04” to read as follows:

#### **§ 52.50 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter 335–3–3 Control of Open Burning and Incineration				
* * * * *				
Section 335–3–3–.01	Open Burning .....	mm/dd/yy	12/28/05 [insert citation of publication].	
* * * * *				
Chapter 335–3–8 Control of Nitrogen Oxide Emissions				
* * * * *				
Section 335–3–8–.04	Standards for Stationary Reciprocating Internal Combustion Engines.	mm/dd/yy	12/28/05 [insert citation of publication].	
* * * * *				

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[FR Doc. 05–24474 Filed 12–27–05; 8:45 am]

**BILLING CODE 6560–50–M**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 180**

[EPA–HQ–OPP–2005–0477; FRL–7753–9]

### **Dichlormid; Extension of Time-Limited Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation amends 40 CFR 180.469 by extending the expiration/revocation date of the time-limited tolerances for residues of acetamide, 2,2-dichloro-*N,N*-di-2-propenyl- (dichlormid) in or on field corn (forage, grain, stover), pop corn (grain, stover), and sweet corn (forage, kernel plus cob with husks removed, stover) at 0.05 ppm. The current tolerances are set to expire on December 31, 2005. This rule extends the expiration/revocation date of these time-limited tolerances to December 31, 2008.

**DATES:** This regulation is effective December 28, 2005. Objections and requests for hearings must be received on or before February 27, 2006.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in

Unit IV. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0477. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. (EDOCKET, EPA’s electronic public docket and comment system was replaced on November 25, 2005, by an enhanced Federal-wide electronic docket management and comment system located at <http://www.regulations.gov/>. Follow the on-line instructions.) 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 in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Keri Grinstead, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number:

(703) 308–8373; e-mail address: [grinstead.keri@epa.gov](mailto:grinstead.keri@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

##### *A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### *B. How Can I Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access