

## 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, 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. In § 165.760, revise paragraphs (a)(1), (a)(3), (a)(5), (a)(7), (b) and (c), and add paragraphs (a)(14) and (a)(15) to read as follows:

### § 165.760 Security Zones; Tampa Bay, Port of Tampa, Port of Saint Petersburg, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River; Florida.

(a) \* \* \*

(1) *Rattlesnake, Tampa, FL.* All water, from surface to bottom, in Old Tampa Bay east and south of a line commencing at position 27°53.32' N, 082°32.05' W; north to 27°53.36' N, 082°32.05' W, including on land portions of Chemical Formulators Chlorine Facility, where the fenced area is bounded by a line connecting the following points: 27°53.21' N, 082°32.11' W; west to 27°53.22' N, 082°32.23' W; then north to 27°53.25' N, 082°32.23' W; then west again to 27°53.25' N, 082°32.27' W; then north again to 27°53.29' N, 082°32.25' W; then east to 27°53.30' N, 082°32.16' W; then southeast terminating at 27°53.21' N, 082°32.11' W.

\* \* \* \* \*

(3) *Sunshine Skyway Bridge, FL.* All waters in Tampa Bay, from surface to bottom, in Cut "A" channel beneath the bridge's main span encompassed by a line connecting the following points: 27°37.30' N, 082°39.38' W to 27°37.13' N, 082°39.26' W; and the bridge structure columns, base and dolphins. This zone is specific to the bridge structure and dolphins and does not include waters adjacent to the bridge columns or dolphins outside of the bridge's main span.

\* \* \* \* \*

(5) *Piers, seawalls, and facilities, Port of Tampa and Port Sutton, Tampa, FL.* All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities in Port Sutton within the Port of Tampa encompassed by a line connecting the following points: 27°54.15' N, 082°26.11' W; east northeast to 27°54.19' N, 082°26.00' W; then northeast to 27°54.37' N, 082°25.72' W, closing off all Port Sutton channel; then northerly to 27°54.48' N, 082°25.70' W.

\* \* \* \* \*

(7) *Piers, seawalls, and facilities, Port of Tampa, on the western side of*

*Hooker's Point, Tampa, FL.* All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities on Hillsborough Bay northern portion of Cut "D" channel, Sparkman channel, Ybor Turning Basin, and Ybor channel within the Port of Tampa encompassed by a line connecting the following points: 27°54.74' N, 082°26.47' W; northwest to 27°55.25' N, 082°26.73' W; then north-northwest to 27°55.60' N, 082°26.80' W; then north-northeast to 27°56.00' N, 082°26.75' W; then northeast to 27°56.58' N, 082°26.53' W; and north to 27°57.29' N, 082°26.51' W; west to 27°57.29' N, 082°26.61' W; then southerly to 27°56.65' N, 082°26.63' W; southwesterly to 27°56.58' N, 082°26.69' W; then southwestly and terminating at 27°56.53' N, 082°26.90' W.

\* \* \* \* \*

(14) *Big Bend Power Plant, FL.* All waters of Tampa Bay, from surface to bottom, adjacent to the Big Bend Power Facility, and within an area bounded by a line connecting the following points: 27°48.08' N, 082°24.88' W; then northwest to 27°48.15' N, 082°24.96' W; then southwest to 27°48.10' N, 082°25.00' W; then south-southwest to 27°47.85' N, 082°25.03' W; then southeast to 27°47.85' N, 082°24.79' W; then east to 27°47.55' N, 082°24.04' W; then north to 27°47.62' N, 082°24.04' W; then west to 27°47.60' N, 082°24.72' W; then north to 27°48.03' N, 082°24.70' W; then northwest to 27°48.08' N, 082°24.88' W, closing off entrance to Big Bend Power Facility and the attached cooling canal.

(15) *Weedon Island Power Plant, FL.* All waters of Tampa Bay, from surface to bottom, extending 50-yards from the shore, seawall and piers around the Power Facility at Weedon Island encompassed by a line connecting the following points: 27°51.52' N, 082°35.82' W; then north and east along the shore to 27°51.54' N, 082°35.78' W; then north to 27°51.68' N, 082°35.78' W; then north to 27°51.75' N, 082°35.78' W, closing off entrance to the canal; then north to 27°51.89' N, 082°35.82' W; then west along the shore to 27°51.89' N, 082°36.10' W; then west to 27°51.89' N, 082°36.14' W, closing off entrance to the canal.

(b) *Definitions.* As used in this section—

*Cruise ship* means a vessel required to comply with 33 CFR part 120.

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or

assisting the Captain of the Port (COTP), in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulation.* (1) Entry into or remaining on or within the zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Sector St. Petersburg or a designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port Sector St. Petersburg or a designated representative on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or designated representative. In the case of moving security zones, notification of activation of these zones will be given by Broadcast Notice to Mariners on VHF FM Marine Band Radio, Channel 22A. For vessels not equipped with a radio, there will also be on site notification via a designated representative of the Captain of the Port.

**Note to §165.760 (c)(2):** A graphical representation of all fixed security zones will be made available via the Coast Pilot and nautical charts.

(3) *Enforcement.* Under §165.33, no person may cause or authorize the operation of a vessel in the security zones contrary to the provisions of this section.

\* \* \* \* \*

### § 165.764 [Removed and reserved]

■ 3. Remove and reserve § 165.764.

Dated: December 29, 2007.

**A.S. Young,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Sector St. Petersburg.*

[FR Doc. 08–20 Filed 1–3–08; 3:48 pm]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2007–0215; FRL–8513–8]

### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and Amendments to the 1-Hour Ozone Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions

submitted by West Virginia. These revisions pertain to: the maintenance plan prepared by West Virginia to maintain the 8-hour national ambient air quality standard (NAAQS) for ozone in Greenbrier County, which is designated attainment for the ozone NAAQS; and two amendments to the existing 1-hour ozone maintenance plan, which include removal of the obligation to submit a maintenance plan for the 1-hour NAAQS eight years after approval of the initial 1-hour maintenance plan, and removal of the State's obligation to implement contingency measures upon a violation of the 1-hour NAAQS. The purpose of this approval is to ensure Federal enforceability of the state air program plan and to maintain consistency between the State-adopted plan and the approved SIP. This action is being taken under the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on February 7, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2007-0215. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. 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 [www.regulations.gov](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 West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by e-mail at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

**SUPPLEMENTARY INFORMATION:**

### I. Background

Section 110(a)(1) of the Clean Air Act (CAA) requires, in part, that states submit to EPA plans to maintain any NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS submit a plan to demonstrate the continued maintenance of the 8-hour

ozone NAAQS. EPA established June 15, 2007, three years after the effective date of the initial 8-hour ozone designations, as the deadline for submission of plans for these areas.

On May 20, 2005, EPA issued guidance that applies, in part, to areas that are designated attainment/unclassifiable for the 8-hour ozone standard and that had an approved 1-hour ozone maintenance plan. The purpose of the guidance, referred to as section 110(a)(1) guidance, is to assist the states in the development of a SIP which addresses the maintenance requirements found in section 110(a)(1) of the CAA. There are five components of the section 110(a)(1) maintenance plan which are: (1) An attainment inventory, which is based on actual typical summer day emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) for a ten-year period from a base year as chosen by the state; (2) a maintenance demonstration which shows how the area will remain in compliance with the 8-hour ozone standard for 10 years after the effective date of designations (June 15, 2004); (3) a commitment to continue to operate air quality monitors; (4) a contingency plan that will ensure that a violation of the 8-hour ozone NAAQS is promptly addressed; and (5) an explanation of how the State will track the progress of the maintenance plan.

On November 7, 2007 (72 FR 62809), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of the 8-hour ozone maintenance plan for Greenbrier County, as well as concurrent approval of two amendments to its existing 1-hour ozone maintenance plan, which include (a) removal of the obligation to submit a maintenance plan for the 1-hour NAAQS eight years after approval of the initial 1-hour maintenance plan, and (b) removal of the State's obligation to implement contingency measures upon a violation of the 1-hour NAAQS. The formal SIP revision was submitted by West Virginia on November 29, 2006.

### II. Summary of SIP Revision

The WVDEP 8-hour ozone maintenance plan addresses the components of the section 110(a)(1) 8-hour ozone maintenance plan as outlined in EPA's May 20, 2005 guidance. West Virginia requested approval of their 8-hour ozone maintenance plan for Greenbrier County, as well as concurrent approval of two amendments to its existing 1-hour ozone maintenance plan.

*Emissions Inventory:* An emissions inventory is an itemized list of emission

estimates for sources of air pollution in a given area for a specified time period. WVDEP has provided a comprehensive and current emissions inventory for NO<sub>x</sub> and VOCs. WVDEP has chosen to use 2002 as the base year from which it will project emissions. The maintenance plan also includes an explanation of the methodology used for determining the anthropogenic (area and mobile sources) emissions. There are no Title V point sources located in Greenbrier County, so a 2002 point source inventory was not compiled. The inventory is based on emissions from a typical ozone season day. The term "typical" refers to emissions being emitted during a typical weekday during the months where ozone concentrations are typically the highest.

*Maintenance Demonstration and Tracking Progress:* With regard to demonstrating continued maintenance of the 8-hour ozone standard, West Virginia projects that the total emissions from Greenbrier County will decrease during the ten-year maintenance period. WVDEP has projected emissions for 10 years from the effective date of initial designations, or 2014. In 2002, the total anthropogenic emissions in Greenbrier County were 7.7 tons/ozone season day for VOCs and 7.4 tons/ozone season day for NO<sub>x</sub>. The projected 2014 anthropogenic emissions from Greenbrier County are 7.0 tons/ozone season day for VOCs and 4.9 tons/ozone season day for NO<sub>x</sub>. As such, the plan demonstrates that, from an emissions projections standpoint, emissions are projected to decrease.

It is important to note that the formation of ozone is dependent on a number of variables which cannot be estimated through emissions growth and reduction calculations. A few of these variables include weather and the transport of ozone precursors from outside the maintenance area. In the section 110(a)(1) maintenance plan, WVDEP had indicated that the state will track the progress of the maintenance plan by updating the emissions inventory for Greenbrier County approximately every three years. The emissions inventory update will include point, area, and mobile emissions. Information from these future updates will be compared with the projected growth estimates for the 2002 base inventory data to track maintenance of the standard.

*Ambient Monitoring:* With regard to the ambient air monitoring component of the maintenance plan, West Virginia commits to continue operating air quality monitoring stations in accordance with 40 CFR Part 58 throughout the maintenance period to

verify maintenance of the 8-hour ozone standard, and will submit quality-assured ozone data to EPA through the AIRS system.

*Contingency Measures:* EPA interprets section 110(a)(1) of the CAA to require that the state develop a contingency plan that will ensure that any violation of a NAAQS is promptly corrected. The purposes of the contingency measures, as outlined in West Virginia's maintenance plan, is to accordingly select and adopt one or more measures outlined in the maintenance plan so as to assure continued attainment in the event that a violation of the ozone NAAQS is measured. Violation of the 8-hour ozone standard would trigger one or more of the control measures outlined in the plan.

Approval of two amendments to West Virginia's existing 1-hour maintenance plan has also been requested by WVDEP. Section 175A(b) requires that maintenance plans be updated. The 1-hour maintenance plan for Greenbrier County extends to 2005, but no update has been developed. West Virginia identifies the most important reason for this being that available resources are being devoted to attainment and maintenance of the 8-hour standard since the 8-hour standard is considered by the State to be more protective than the former 1-hour standard upon which the current maintenance plan is based. As such, West Virginia is amending this existing maintenance plan, which is codified at 40 CFR 52.2520(e), for the Greenbrier County 1-hour maintenance area by removing the State's obligation to submit a maintenance plan for the 1-hour NAAQS eight years after approval of the initial 1-hour maintenance plan, and is requesting approval of these amendments.

### III. Final Action

EPA is approving the SIP revisions submitted by WVDEP pertaining to their section 110(a)(1) 8-hour ozone maintenance plan for Greenbrier County, West Virginia. This plan demonstrates how the State intends to maintain the 8-hour NAAQS for ozone. Additionally, EPA is concurrently approving two amendments to the existing 1-hour ozone maintenance plan: (1) Removal of the obligation to submit a maintenance plan for the 1-hour NAAQS 8 years after approval of the initial 1-hour maintenance plan; and (2) removal of the State's obligation to implement contingency measures upon a violation of the 1-hour NAAQS.

## IV. Statutory and Executive Order Reviews

### A. General Requirements

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 requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 approves a state rule implementing a Federal standard.

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

### 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 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**. This rule 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 March 10, 2008. 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 approving the section 110(a)(1) 8-hour Ozone Maintenance Plan for Greenbrier County, West Virginia, and concurrent approval of two amendments to the existing 1-hour ozone maintenance plan may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 19, 2007.

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

**Donald S. Welsh,**  
Regional Administrator, Region III.

**Subpart XX—West Virginia**

■ 40 CFR part 52 is amended as follows:

■ 2. In § 52.2520, the table in paragraph (e) is amended by:

■ b. Adding an entry for the 8-hour Ozone Maintenance plan for Greenbrier County, WV, at the end of the table.

**PART 52—[AMENDED]**

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

■ a. Revising the existing entry for Ozone Maintenance Plan & contingency measures (Greenbrier County).

The amendments read as follows:

**§ 52.2520 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Ozone Maintenance Plan & contingency measures.	Greenbrier County .....	9/9/94	8/4/95, 60 FR 39857 .....	52.2565(c)(36)
		11/29/06	1/8/08, [Insert page number where the document begins].	Action includes (a) removal of the obligation to submit a maintenance plan eight years after initial approval, and (b) removal of the obligation to implement contingency measures upon a violation of the NAAQS
8-Hour Ozone Maintenance Plan for Greenbrier County, WV.	Greenbrier County .....	11/29/06	1/8/08, [Insert page number where the document begins].	

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**45 CFR Parts 1304 and 1306**

**RIN 0970-AB90**

**Head Start Program**

**AGENCY:** Administration for Children and Families (ACF), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements the addition of family child care as a Head Start and Early Head Start program option. Family child care is care and education provided to children in a private home or other family-like setting. In keeping with the goal of designing programs that meet family and community needs, some Head Start and Early Head Start agencies have

identified family child care as an effective Head Start service delivery model.

**DATES:** *Effective Dates:* This final rule is effective February 7, 2008.

**FOR FURTHER INFORMATION CONTACT:** Camille Loya, Office of Head Start, Administration on Children and Families, 1250 Maryland Avenue, SW., Washington, DC 20024; (202) 401-5964.

**SUPPLEMENTARY INFORMATION:**

- I. Program Purpose
- II. Background and Purpose of Rule
- III. Summary of Major Provisions of the Rule
- IV. Rulemaking History
- V. Section-by-Section Discussion of Comments
- VI. Impact Analysis

**SUPPLEMENTARY INFORMATION:**

**I. Program Purpose**

Head Start is authorized under the Head Start Act (the Act), Title VI, Subtitle A, Chapter 8 of the Public Law 97-35, the Omnibus Reconciliation Act of 1981 (42 U.S.C. 9801 *et seq.*). It is a national program providing comprehensive child development

services primarily to low-income children from birth to five years of age, pregnant women, and their families. To help enrolled children achieve their full potential, Early Head Start and Head Start programs provide comprehensive health, nutritional, educational, social, and other services.

Additionally, programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 2005, Early Head Start and Head Start served 906,993 children and their families through over 2,000 local grantee and delegate agencies. More than 23 million children and families have been served since the 1965 initiation of the Head Start program.

While Early Head Start and Head Start are intended to serve primarily children whose families have incomes at or below the poverty line, or who receive public assistance, Head Start regulations