§ 334.845 Wisconsin Air National Guard, Volk Field military exercise area located in Lake Michigan offshore from Manitowoc and Sheboygan Counties; Danger Zone.

(a) *The area.* (1) The waters within an area beginning at a point at latitude 43°19′00″ N., longitude 87°41′00″ W.; to latitude 44°05′30″ N., longitude 87°29′45″ W.; to latitude 44°02′00″ N., longitude 87°02′30″ W.; to latitude 43°15′30″ N., longitude 87°14′00″ W.; thence to the point of beginning, as shown on NOAA Chart 14901 (1999) and existing aeronautical charts.

(b) *The regulation.* (1) During specific, infrequent periods when Military exercises will be conducted, as promulgated in the Local Notice to mariners published by the United States Coast Guard (USCG), all vessels entering the danger zone are advised to proceed across the area by the most direct route and without unnecessary delay. (2) During specific, infrequent periods when Military exercises will be conducted, as promulgated in the Local Notice to mariners published by the USCG , no vessel or craft of any size shall lie-to or anchor in the danger zone, other than a vessel operated by or for the USCG, or any other authorized agency.

(c) *Normal use.* At all other times, nothing in this regulation shall prohibit any lawful uses of this area.

(d) *Enforcement.* The regulation in this section shall be enforced by the Commanding Officer, VOLK Field, WI, and/or persons or agencies as he/she may designate.

Dated: June 28, 2004.

Michael B. White,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 04–17352 Filed 7–29–04; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50 and 58

[OAR–2003–0229; FRL–7794–1]

RIN 2060–AM02

National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In *American Trucking Associations* v. *EPA,* 175 F. 3d 1027 (D.C. Cir. 1999), the court vacated the PM_{10} national ambient air quality standards (NAAQS) that EPA adopted in 1997. Today's action removes the vacated 1997 PM_{10} standards and related requirements from the Code of Federal Regulations (CFR).

DATES: This rule is effective on July 30, 2004.

ADDRESSES: The EPA does not seek comment on this final rule. EPA has established an official public docket for this action under Docket ID No. OAR–2003–0229. The official public docket consists of the documents specifically referenced in this action.

The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1742, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: Eric O. Ginsburg, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency (C304–02), Research Triangle Park, NC 27711; e-mail *Ginsburg.Eric@epa.gov*; telephone (919) 541–0877; fax (919) 541–4511.

SUPPLEMENTARY INFORMATION:

I. Background

A. 1997 Revision of the PM NAAQS

On July 18, 1997, EPA promulgated revisions to the primary and secondary NAAQS for particulate matter (PM) (62 FR 38652), revising the PM NAAQS in several respects. New standards were added, using $PM_{2.5}$ (defined as particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (μm)) as the indicator for standards adopted for the purpose of regulating fine particles, and continuing to use PM_{10} (defined as particles with an aerodynamic diameter less than or equal to a nominal 10 μm) as the indicator for standards adopted for the purpose of regulating coarse-fraction particles (referring to those particles with an aerodynamic diameter less than or equal to a nominal 10 μm but greater than 2.5 μm). The 1997 annual PM_{10} standard used the same form as the pre-existing annual PM_{10} standard adopted in 1987, whereas the 1997 24-hour PM_{10} standard incorporated a new statistical form, based on the 99th percentile of 24-hour PM_{10} concentrations at each monitor in an area. EPA also adopted various requirements related to the 1997 PM_{10} standards such as new measurement methods, a new attainment test, and air quality monitoring schedules.

At that time, EPA determined that the pre-existing 1987 PM_{10} standards should remain in place and continue to apply in order to provide for an effective transition to the 1997 PM_{10} standards. 62 FR at 38701. To this end, EPA adopted a regulation setting forth criteria under which the pre-existing PM_{10} standards would cease to apply. See 40 CFR 50.6(d), 62 FR at 38711.

B. Judicial Vacatur of the 1997 PM_{10} Standards

Following promulgation of the 1997 PM NAAQS, numerous petitions for review of the PM standards were filed in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). These petitions were consolidated in *American Trucking Associations, Inc. et al.,* v. *EPA* and the court issued its initial opinion on May 14, 1999. *American Trucking Associations, Inc. et al.,* v. *Environmental Protection Agency,* 175 F.3d 1027 (D.C. Cir. 1999), rehearing granted in part and denied in part, 195 F.3d 4 (D.C. Cir. 1999), affirmed in part and reversed in part, *Whitman* v. *American Trucking Associations, Inc. et al.,* 121 S.Ct 903 (2001); see also *American Trucking Associations* v. *EPA,* 283 F.3d 355 (D.C. Cir. 2002) (denying all remaining petitions for

review following remand from United States Supreme Court). In part, although the court found ''ample support'' for EPA's decision to regulate coarse-fraction particles, it vacated the 1997 PM_{10} standards on the basis of PM_{10} being a ''poorly matched indicator for coarse particulate pollution'' because PM_{10} includes fine particles. 175 F. 3d at 1054–55. Pursuant to the D.C. Circuit's decision, EPA deleted 40 CFR 50.6(d), the regulatory provision controlling the transition from the pre-existing 1987 PM_{10} standards to the 1997 PM_{10} standards. 65 FR 80776 (December 22, 2000). The pre-existing 1987 PM_{10} standards remained in place. *Id.* at 80777.

The above discussion is presented solely to provide context for today's action. EPA is not reopening, reconsidering, or otherwise reevaluating the appropriateness of any of these previous actions in today's notice.

II. Changes to the Regulation

Today's action removes from the CFR the PM_{10} standards adopted in 1997 contained in 40 CFR 50.7(a)(2). These are the annual and 24-hour PM_{10} standards and the associated new reference measurement method (contained in Appendix M). EPA is also removing 40 CFR 50.7(d) and (e), which includes the attainment tests for the PM_{10} annual and 24-hour standards adopted in 1997 (included in Appendix N). Consistent with these changes, we are also removing Appendix M in its entirety and revising Appendix N to remove any provisions that relate to the 1997 PM_{10} standards. In addition, EPA is amending 40 CFR 50.3 (which specifies reference measurement conditions) to remove language that extended the scope of its applicability to the 1997 PM_{10} standards.

The EPA is also making conforming changes to the titles of 40 CFR 50.7 and Appendix N to clarify that these sections are now applicable solely to $PM_{2.5}$. Similarly, we are changing the title of Appendix K to clarify that it is applicable solely to PM_{10}.

Because the form of the pre-existing 1987 PM_{10} standards necessitated a different air quality monitoring schedule from that required for the vacated standards, EPA is also replacing § 58.13(d) with relevant portions of the ''long-term monitoring selective sampling schedule'' previously found at 40 CFR 58.13(d)(2) (July 1, 1996). Because the PM_{10} monitoring networks are now fully deployed, EPA is not restoring those provisions pertaining to their initial implementation.

Although we are reprinting certain language from the 1997 rule in today's amendment, we are doing so only to assure clarity and grammatical correctness after deletion of the vacated text. We are not reopening, reconsidering, or otherwise reassessing any of this reprinted language.

III. Issuance as Final Rule

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B),[1] provides that when an agency for good cause finds that notice and public comment procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this rule is ministerial and non-discretionary, amending the regulations to reflect the court's order vacating the 1997 PM_{10} standards. The rule thus vacates the 1997 PM_{10} standards and the ancillary provisions directly related thereto. Because EPA has no discretion as to what action to take, notice and opportunity for public comment are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). For the same reason, EPA finds that there is good cause, within the meaning of 5 U.S.C. 553(d)(3), to make the rule effective immediately.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, [58 FR 51735 (October 4, 1993)] the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the Executive Order.

Because this action involves a ministerial removal of regulatory text in response to a court order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to EO 12866 review.

B. Paperwork Reduction Act

The Administrator has determined today's action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), since it directly imposes no burden at all. Burden means the total time, effort, or financial resources expended to generate and maintain, retain, or provide information as required by a rule. This includes the time needed to review instructions; develop, acquire, install, and use technology and systems for collecting, validating, and verifying information or processing and maintaining information; adjust the existing ways to comply with previous instructions and requirements; train personnel to respond to the collection of information; search data sources; complete and review the information; and transmit the information. Today's rule imposes no such burden on any entity.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, as well as the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the

[1] The provisions of 5 U.S.C. 553(b)(B) of the Administrative Procedure Act apply to this action. See Clean Air Act section 307(d)(1) (final sentence).

Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a Small Government Agency Plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to sections 202 and 205 of the UMRA. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or EPA consults with State and local officials early in the process of developing the proposed regulation. Also, the EPA may not issue a regulation that has Federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB in a separately identified section of the preamble to the rule a Federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with Federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This action will 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. This action will not alter the overall relationship or distribution of powers between governments for the Title V Program. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does 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) because it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Accordingly, this rule is not subject to Executive Order 13175.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This action is not subject to Executive Order 13045 because it is not an economically-significant, regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, *etc.*) that are developed or adopted by voluntary-consensus standard bodies. The NTTAA directs EPA to provide Congress through OMB explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Congressional Review Act

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has

made such a good cause finding, including the reasons therefor, and established an effective date of [date of publication] for this rule. The 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 the publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Immediate Effective Date

As noted earlier, EPA is making this rule effective immediately. Since EPA has no discretion as to what action to take and is simply amending the rules to conform to the D.C. Circuit's order of vacatur, comment on these amendments is unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B).

For the same reason, there is good cause to make the rule effective immediately pursuant to 5 U.S.C. 553(d)(3).

List of Subjects

40 CFR Part 50

Environmental protection, Air pollution control, Particulate matter.

40 CFR Part 58

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 22, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons set out in the preamble, chapter I, title 40 of the *Code of Federal Regulations*, is amended as follows:

PART 50—[AMENDED]

■ 1. The authority citation for part 50 continues to read as follows:

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

■ 2. Section 50.3 is revised to read as follows:

§ 50.3 Reference conditions.

All measurements of air quality that are expressed as mass per unit volume (*e.g.*, micrograms per cubic meter) other than for the particulate matter ($PM_{2.5}$) standards contained in § 50.7 shall be corrected to a reference temperature of 25°C and a reference pressure of 760 millimeters of mercury (1,013.2 millibars). Measurements of $PM_{2.5}$ for purposes of comparison to the standards contained in § 50.7 shall be reported based on actual ambient air volume measured at the actual ambient temperature and pressure at the monitoring site during the measurement period.

§ 50.7 [Amended]

■ 3. Section 50.7 is amended as follows:

■ a. Revising the section heading.

■ b. Revising paragraph (a) introductory text.

■ c. Removing paragraphs (a)(1) introductory text, (a)(2), (d) and (e).

■ d. Redesignating paragraphs (a)(1)(i) and (a)(1)(ii) as paragraphs (a)(1) and (a)(2) respectively.

§ 50.7 National primary and secondary ambient air quality standards for $PM_{2.5}$.

(a) The national primary and secondary ambient air quality standards for particulate matter are 15.0 micrograms per cubic meter (μg/m³) annual arithmetic mean concentration, and 65 μg/m³ 24-hour average concentration measured in the ambient air as $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:

* * * * *

Appendix K—[Amended]

■ 4. The heading of Appendix K is revised to read as follows:

Appendix K to Part 50—Interpretation of the National Ambient Air Quality Standards for PM_{10}.

Appendix M—[Amended]

■ 5. Appendix M is removed and reserved.

Appendix N—[Amended]

■ 6. Appendix N is amended by revising the appendix heading and removing section 3.0 in its entirety and revising paragraphs (a) and (c) of section 1.0 to read as follows:

Appendix N to Part 50—Interpretation of the National Ambient Air Quality Standards for $PM_{2.5}$

1.0 General.

(a) This appendix explains the data handling conventions and computations necessary for determining when the annual and 24-hour primary and secondary national ambient air quality standards for PM specified in § 50.7 of this part are met. Particulate matter is measured in the ambient air as $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by a reference method based on appendix L of this part, as applicable, and designated in accordance with part 53 of this chapter, or by an equivalent method designated in accordance with part 53 of this chapter. Data handling and computation procedures to be used in making comparisons between reported $PM_{2.5}$ concentrations and the levels of the PM standards are specified in the following sections.

* * * * *

(c) The terms used in this appendix are defined as follows:

Average and mean refer to an arithmetic mean.

Daily value for PM refers to the 24-hour average concentration of $PM_{2.5}$ calculated or measured from midnight to midnight (local time).

Designated monitors are those monitoring sites designated in a State PM Monitoring Network Description for spatial averaging in areas opting for spatial averaging in accordance with part 58 of this chapter.

98th percentile means the daily value out of a year of $PM_{2.5}$ monitoring data below which 98 percent of all values in the group fall.

Year refers to a calendar year.

* * * * *

PART 58—[AMENDED]

■ 1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613 and 7619.

§ 58.13 [Amended]

■ 2. Section 58.13 is amended by revising paragraph (d) to read as follows:

§ 58.13 Operating schedule.

* * * * *

(d) For PM_{10} samplers—a 24-hour sample must be taken from midnight to midnight (local time) to ensure national consistency. The minimum monitoring schedule for the site in the area of expected maximum concentration shall be based on the relative level of that monitoring site concentration with respect to the level of the controlling standard. For those areas in which the short-term (24-hour) standard is controlling, *i.e.*, has the highest ratio, the selective sampling requirements are illustrated in Figure 1. If the operating agency were able to demonstrate by monitoring data that there were certain periods of the year where conditions preclude violation of the PM_{10} 24-hour standard, the increased sampling frequency for those periods or seasons may be exempted by the Regional Administrator and revert back to once in six days. The minimum sampling schedule for all other sites in the area would be once every six days. For those areas in which the annual standard is the controlling standard, the minimum sampling schedule for all monitors in the area would be once every six days. During the annual review of the SLAMS network, the most recent year of data must be considered to estimate the air

quality status for the controlling air quality standard (24-hour or annual). Statistical models such as analysis of concentration frequency distributions as described in "Guideline for the Interpretation of Ozone Air Quality Standards," EPA–450/479–003, U.S. Environmental Protection Agency, Research Triangle Park, NC, January 1979, should be used. Adjustments to the monitoring schedule must be made on the basis of the annual review. The site having the highest concentration in the most current year must be given first consideration when selecting the site for the more frequent sampling schedule. Other factors such as major change in sources of PM_{10} emissions or in sampling site characteristics could influence the location of the expected maximum concentration site. Also, the use of the most recent 3 years of data might, in some cases, be justified in order to provide a more representative data base from which to estimate current air quality status and to provide stability to the network. This multiyear consideration would reduce the possibility of an anomalous year biasing a site selected for accelerated sampling. If the maximum concentration site based on the most current year is not selected for the more frequent operating schedule, documentation of the justification for selection of an alternative site must be submitted to the Regional Office for approval during the annual review process. It should be noted that minimum data completeness criteria, number of years of data and sampling frequency for judging attainment of the NAAQS are discussed in appendix K of part 50 of this chapter.

BILLING CODE 6560–50–P

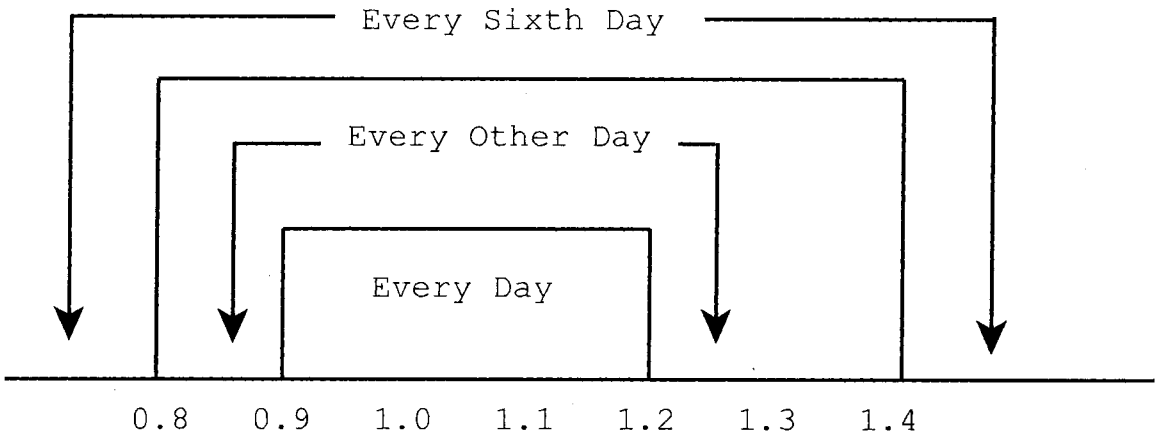

Figure 1 - Ratio to Standard

* * * * *

[FR Doc. 04–17372 Filed 7–29–04; 8:45 am]

BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Petition IV–2003–7; FRL–7795–1]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Cargill, Inc.—Soybean Oil Mill; Gainesville (Hall County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated July 16, 2004, partially granting and partially denying a petition to object to a state operating permit issued by the Georgia Environmental Protection Division (EPD) to Cargill, Inc.—Soybean Oil Mill (Cargill) located in Gainesville, Hall County, Georgia. Pursuant to section 505(b)(2) of the Clean Air Act (the Act), judicial review of any denial of the petition may be sought in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307 of the Act. No objection shall be subject to judicial review until final action is taken to issue or deny a permit under section 505(c).

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The final order is also available electronically at the following address: *http://www.epa.gov/region7/programs/artd/air/title5/petitiondb/petitions/cargillamendment_decision2003.pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.*

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and, as appropriate, to object to operating permits proposed by state permitting authorities under title V of the Act, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

GCLPI submitted a petition on behalf of the Sierra Club to the Administrator on October 7, 2003, requesting that EPA object to a state title V operating permit issued by EPD to Cargill. The Petitioner maintains that the Cargill permit is inconsistent with the Act due to: (1) The inadequacy of EPD's reasonably available control technology determinations for various emission units; (2) the inadequacy of various monitoring and reporting requirements; (3) the inadequacy of the statement of