

closed position from 4 a.m. on March 10, 2011 through 11 p.m. on March 11, 2011. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 28, 2011.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2011-5671 Filed 3-10-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2011-0099]

#### Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Hempstead, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Meadowbrook State Parkway Bridge across the Sloop Channel, mile 12.8, at Hempstead, New York. The deviation is necessary to install new link arms at the bridge. This deviation allows the bridge to remain in the closed position.

**DATES:** This deviation is effective from 7 a.m. on March 14, 2011 through 3 p.m. on March 25, 2011.

**DATES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2011-0099 and are available online at <http://www.regulations.gov>, inserting USCG-2011-0099 in the "Keyword" and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Ms. Judy Leung-Yee, Project Officer, First Coast Guard District,

*judy.k.leung-ye@uscg.mil*, telephone (212) 668-7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

The Meadowbrook State Parkway Bridge has a vertical clearance in the closed position of 22 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(h).

The waterway has seasonal recreational vessels and fishing vessels of various sizes. We contacted the commercial fishermen and no objections were received.

The New York Department of Transportation, requested a temporary deviation to facilitate installation of new link arms.

Under this temporary deviation the Meadowbrook State Parkway Bridge at mile 12.8, across Sloop Channel, may remain in the closed position between 7 a.m. and 3 p.m., Monday through Friday, from March 14, 2011 through March 25, 2011. Vessels that can pass under the bridge during the closed periods without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 28, 2011.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2011-5666 Filed 3-10-11; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-R03-OAR-2010-0431; FRL-9278-8]

#### Approval of One-Year Extension for Attaining the 1997 8-Hour Ozone Standard in the Baltimore Moderate Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the extension of the attainment date from June 15, 2010 to June 15, 2011 for the Baltimore nonattainment area, which is classified as moderate for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). This

extension is based on the air quality data for the 4th highest daily 8-hour monitored value during the 2009 ozone season. Accordingly, EPA is revising the table concerning the 8-hour ozone attainment dates in the State of Maryland. EPA is approving the extension of the attainment date for the Baltimore moderate ozone nonattainment area in accordance with the requirements of the Clean Air Act (CAA).

**DATES: Effective Date:** This final rule is effective on April 11, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2010-0431. All documents in the docket are listed in the <http://www.regulations.gov> Web site. 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 <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 Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814-2036, or by e-mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 23, 2010 (75 FR 43114), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of the attainment date extension from June 15, 2010 to June 15, 2011 for the Baltimore nonattainment area. The Maryland Department of the Environment (MDE) formally requested the extension on March 12, 2010.

##### II. Summary

Section 172(a)(2)(C) of subpart 1 of the CAA provides for EPA to extend the attainment date for an area by one year if the State has complied with all the requirements and commitments pertaining to the area in the applicable implementation plan and no more than a minimal number of exceedances of the NAAQS has occurred in the attainment

year. Section 181(a)(5) of subpart 2 contains a similar provision for the ozone NAAQS. It also requires that an area seeking an extension must have met all applicable requirements and commitments pertaining to the area in the applicable State Implementation Plan. However, instead of providing for an extension where there has been a "minimal" number of exceedances, it allows an extension only if there is no more than one exceedance of the NAAQS in the year proceeding the extension year. The language in Section 181(a)(5) reflects the form of the 1-hour ozone NAAQS and not the 1997 form of the 8-hour ozone NAAQS. To address this, EPA interpreted this provision for purposes of implementing the 1997 8-hour ozone standard, as set forth at 40 CFR 51.907. Under 40 CFR 51.907, an area will meet the requirement addressing "exceedances" of the standard if:

(a) For the first one-year extension, the area's 4th highest daily 8-hour average in the attainment year is 0.084 parts per million (ppm) or less.

(b) For the second one-year extension, the area's 4th highest daily 8-hour value, averaged over both the original attainment year and the first extension year, is 0.084 ppm or less.

(c) For purposes of paragraphs (a) and (b) of this section, the area's 4th highest daily 8-hour average shall be from the monitor with the 4th highest daily 8-hour average of all the monitors that represent that area.

The State of Maryland submitted the monitoring data for the Baltimore moderate 8-hour ozone nonattainment area. EPA's review of the actual ozone air quality data in the Air Quality System shows that the 4th highest daily average 8-hour ozone concentration for the 2009 attainment year ozone season, for all monitors in the Baltimore moderate ozone nonattainment area measured at 0.084 ppm or less, as required by 40 CFR 51.907(a). EPA has determined that the requirements for a one-year extension of the attainment date have been fulfilled as follows:

(1) The State of Maryland has complied with all requirements and commitments pertaining to the area in the applicable ozone implementation plan; and

(2) The Baltimore nonattainment area's 4th highest daily 8-hour monitored value during the 2009 ozone season is 0.084 ppm or less.

On July 23, 2010, EPA received adverse comments from the Gwynns Falls Watershed Association and on August 23, 2010, EPA received adverse comments from the Environmental Integrity Project and the Baltimore

Harbor Waterkeep on the NPR. A summary of the comments submitted and EPA's response is provided in Section III of this document.

### III. Summary of Public Comments and EPA Responses

*Comment:* The two adverse comments received were substantially similar in regards to the proposed one-year extension for attaining the 1997 8-hour ozone standard in the Baltimore nonattainment area. The commenters are concerned that the extension of the attainment date extension from June 15, 2010 to June 15, 2011 for the Baltimore nonattainment area will only lead to further health issues. The commenters also are concerned about the precision of the instrumentation used to collect the fourth highest daily 8-hour average of 0.083 parts per million (ppm) and the standard error of the measurement for the Harford County site in 2009.

*Response:* In response to the commenters first concern, the CAA and our regulations address the health issues by ensuring that ambient levels for the attainment year are at or below the level of the NAAQS. The requirement that primary standards include an adequate margin of safety is a requisite to protect the public health and intended to provide a reasonable degree of protection against hazards that research has not yet identified. In response to the commenters second concern about the precision of the instrumentation and the standard error of the measurement, Appendix A to part 58 of Title 40 of the Code of Federal Regulations (Appendix A) provides the quality assurance requirements for air monitoring. The appendix specifies the minimum quality system requirements applicable to air monitoring data for ozone submitted to EPA. Additional guidance for the requirements in Appendix A can be found in the "Quality Assurance Handbook for Air Pollution Measurement Systems," volume II, part I. Appendix A requires States to perform precision checks on all monitors to assess data quality and consistency with the established acceptance criteria. Section 3.2.1 of Appendix A requires States to perform a one-point quality control (QC) check at least once every 2 weeks to measure ozone. Section 4.1.2 of Appendix A provides the method for calculating the precision of the data measurements. The precision estimate is used to assess the one-point QC checks for all monitors. The ozone precision acceptance criterion is met for the 90 percent Confidence Level of coefficient of variation when the calculated value is less than or equal to 7 percent. The commenters correctly note that the

Harford County site measured at 0.083 ppm in 2009. EPA's review of the data showed that MDE performed the required amount of one-point QC checks in 2009 for the Harford County ozone monitor. Results of these one-point QC checks were all less than 7 percent, consistent with the established acceptance criteria. The 2009 one-point QC check results for the Harford County ozone monitor were used to calculate the 90 percent Confidence Level of coefficient of variation. Using the precision calculation detailed in Section 4.1.2, the results showed that the Harford County ozone monitor was below the less than or equal to 7 percent precision ozone acceptance criteria for a 90 percent Confidence Limit of coefficient of variation. Therefore, the area satisfied the measurement quality requirements according to Appendix A for data compliance.

### IV. Final Action

EPA is approving the attainment date extension from June 15, 2010 to June 15, 2011 for the Baltimore nonattainment area, which is classified as moderate for the 1997 8-hour ozone NAAQS.

### V. 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 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), nor will it 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), because it merely determines that each of two areas has attained a Federal standard, 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 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve establishment of technical standards, and 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does

not affect the level of protection provided to human health or the environment. The rulemaking does not affect the level of protection provided to human health or the environment because extending the attainment date does not alter the emission reduction measures that are required to be implemented in the Baltimore Area, which is classified as moderate nonattainment for the 1997 8-hour ozone standard. *See*, 69 FR at 23909 (April 30, 2004). Additionally, if the Baltimore Area were not granted an extension of its attainment date, EPA's recourse would be to initiate a reclassification of the Baltimore Area from its current classification of moderate nonattainment to serious nonattainment, pursuant to section 181(b)(2) of the CAA. Because the Baltimore area was formerly a severe nonattainment area under the revoked 1-hour ozone standard (*see*, 56 FR at 56773, November 6, 1991), it is required to continue to implement severe area requirements pursuant to EPA's interpretation of "anti-backsliding" provision of section 172(e) of the CAA. *See* 69 FR at 23973, April 30, 2004, *South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (DC Cir. 2006), *modified and rehearing den.*, 489 F.3d 1245 (DC Cir. 2007). The severe area requirements are more stringent than both the moderate and serious area requirements set forth in Title I, part D, subpart 2 of the CAA. Therefore, even if EPA were to not grant the attainment date extension and instead move to reclassify the area to serious nonattainment, no additional emission reduction measures would be required to be implemented in the Baltimore area through a 181(b)(2) reclassification. The extension of the attainment deadline for the 1997 8-hour ozone NAAQS 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 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 May 10, 2011. 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. This 1-year attainment date extension for the 1997 8-hour ozone NAAQS for the Baltimore Area may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 1, 2011.

**W.C. Early,**

*Acting, Regional Administrator, Region III.*

40 CFR part 81 is amended as follows:

#### **PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.321, the table entitled "Maryland—Ozone (8-Hour Standard)" is amended by revising the entry for Baltimore, MD (Anne Arundel County, City of Baltimore, Baltimore County, Carroll County, Harford County, and Howard County) and adding footnote 4 to read as follows:

#### **§ 81.321 Maryland.**

\* \* \* \* \*

MARYLAND—OZONE  
[8-Hour standard]

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Baltimore, MD:				
Anne Arundel County .....		Nonattainment .....		Subpart 2/Moderate. <sup>4</sup>
City of Baltimore .....		Nonattainment .....		Subpart 2/Moderate. <sup>4</sup>
Baltimore County .....		Nonattainment .....		Subpart 2/Moderate. <sup>4</sup>
Carroll County .....		Nonattainment .....		Subpart 2/Moderate. <sup>4</sup>
Harford County .....		Nonattainment .....		Subpart 2/Moderate. <sup>4</sup>
Howard County .....		Nonattainment .....		Subpart 2/Moderate. <sup>4</sup>
* * * * *				

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.  
<sup>1</sup> This date is June 15, 2004, unless otherwise noted.  
 \* \* \* \* \*  
<sup>4</sup> Attainment date extended to June 15, 2011.

\* \* \* \* \*  
 [FR Doc. 2011-5631 Filed 3-10-11; 8:45 am]  
 BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 410, 416, and 419**

[CMS-1504-CN]

RIN 0938-AP41

**Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2011 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2011 Payment Rates; Changes to Payments to Hospitals for Graduate Medical Education Costs; Corrections**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published on November 24, 2010, entitled “Medicare Program: Hospital Outpatient Prospective Payment System and CY 2011 Payment Rates; Ambulatory Surgical Center Payment System and CY 2011 Payment Rates; Payments to Hospitals for Graduate Medical Education Costs; Physician Self-Referral Rules and Related Changes to Provider Agreement Regulations; Payment for Certified Registered Nurse Anesthetist Services

Furnished in Rural Hospitals and Critical Access Hospitals.”

**DATES:** *Effective Date:* This document is effective on January 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Division of Outpatient Care, (410) 786-0378.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In FR Doc. 2010-27926 of November 24, 2010 (75 FR 71800) (hereinafter referred to as the CY 2011 OPPS/ASC final rule), there were several technical and typographic errors that we describe in the “Summary of Errors” section and correct in the “Correction of Errors” section below. In addition to correcting errors in the preamble and Addendum B, this correction notice corrects errors in Addenda AA and BB to the CY 2011 OPPS/ASC final rule. Most of the changes to these Addenda are based on changes to the practice expense (PE) relative value units (RVUs) and the conversion factor (CF) for the Medicare Physician Fee Schedule (MPFS) for CY 2011. In the January 11, 2011 CY 2011 MPFS correction notice (76 FR 1670), we corrected errors in the November 29, 2010 Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2011 final rule with comment period (hereinafter referred to as the CY 2011 MPFS final rule) to the PE RVUs and the CF for the CY 2011 MPFS (75 FR 73170). The revised ASC payment system uses the PE RVUs and the CF for the MPFS as part of the office-based and ancillary radiology payment methodology. This correction notice

updates the CY 2011 OPPS/ASC final rule to include these corrections.

The provisions in this correction document are effective as if they had been included in the CY 2011 OPPS/ASC final rule appearing in the CY 2011 OPPS/ASC final rule. Accordingly, the corrections are effective January 1, 2011.

**II. Summary of Errors**

*A. Errors in the November 24, 2010 Final Rule*

In the CY 2011 OPPS/ASC final rule, we have identified a number of technical and typographic errors. Specifically, on page 71913, we are correcting the inadvertent inclusion of the word “stated” and deleting this word from the description of the public comment in the preamble section entitled “Revision/Removal of Neurostimulator Electrodes (APC 0687).” On pages 71915 and 71916, we incorrectly stated the number of single and total claims used in the ratesetting process for APCs 0664 and 0667, in the “Proton Beam Therapy (APCs 0664 and 0667)” section of the preamble. Specifically, on page 71915 we incorrectly stated that 11,963 single claims out of 12,995 total claims were used in the ratesetting process for APC 0664. On page 71916, we also incorrectly stated that 2,799 single claims out of 3,081 total claims were used in the ratesetting process for APC 0667. We are changing this section to correctly state that we used 10,943 single claims out of 11,895 total claims in the ratesetting process for APC 0664 and that we used 2,569 single claims out of 2,831 total claims in the ratesetting