

(Authority: 38 U.S.C. 1155)

**§§ 4.80, 4.83, and 4.84 [Removed and Reserved]**

■ 8. Sections 4.80, 4.83, and 4.84 are removed and reserved.

**§§ 4.83a and 4.84a [Removed]**

■ 9. Sections 4.83a and 4.84a are removed.

[FR Doc. E8-26304 Filed 11-7-08; 8:45 am]

BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2008-0068; FRL-8738-3]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control of Stationary Combustion Turbine Electric Generating Unit Emissions**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision pertains to controlling nitrogen oxides (NO<sub>x</sub>) emissions from stationary combustion turbine (CT) electric generating units (EGUs). EPA is approving this SIP revision in accordance with the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on December 10, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0068. 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 the Delaware Department of Natural Resources & Environmental

Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Gerallyn Duke (215) 814-2084, or by e-mail at [duke.gerallyn@epa.gov](mailto:duke.gerallyn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 14, 2008 (73 FR 40228), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Regulation 1148—Control of Stationary Combustion Turbine Electric Generating Unit Emissions. The formal SIP revision was submitted by the State of Delaware on September 11, 2007.

**II. Summary of SIP Revision**

Regulation 1148 requires that an owner or operator of an existing stationary combustion turbine electric generating unit located in Delaware with a base-load nameplate capacity of 1 megawatt (MW) or greater must, by May 1, 2009, either demonstrate that the existing stationary combustion turbine generating unit meets the emission limits listed below or must install NO<sub>x</sub> emission controls designed to meet these limits:

- For CTs that burn gaseous fuel—42 parts per million volume (ppmv) NO<sub>x</sub>.
- For CTs that burn liquid fuel—88 ppmv NO<sub>x</sub>.

Design of these limits was based on anticipated NO<sub>x</sub> emissions if water injection pollution control equipment were installed. The six CTs affected by this regulation operate without any NO<sub>x</sub> pollution control equipment, although they are subject to regulations designed to control NO<sub>x</sub> emissions. Delaware determined that the six sources could achieve significant reductions in their NO<sub>x</sub> emissions through the use of water injection equipment. EPA has previously recognized this equipment and technology as reasonably available control technology (RACT). Water injection is a proven, feasible technology that has been used in other states to reduce NO<sub>x</sub> emissions.

This revision will reduce NO<sub>x</sub> emissions from CTs by 40 percent, or by 0.88 tons per day to approximately 1.33 tons per day. Such a reduction will significantly improve air quality, particularly on days when CTs normally operate, i.e., hot humid days and when weather conditions are conducive to forming ground-level ozone, and is one of the many regulatory steps taken to allow Delaware to attain the National Ambient Air Quality Standards (NAAQS) by 2010.

Other specific requirements of Regulation 1148 and the rationale for

EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

**III. Final Action**

EPA is approving Regulation 1148—Control of NO<sub>x</sub> Emissions from Stationary Combustion Turbine Electric Generating Units as a revision to the Delaware SIP.

**IV. Statutory and Executive Order Reviews**

*A. General Requirements*

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

*B. Submission to Congress and the Comptroller General*

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

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the 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 January 9, 2009. 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 action to control NO<sub>x</sub> emissions from stationary combustion turbine electric generating units in Delaware 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, Reporting and recordkeeping requirements.

Dated: October 28, 2008.

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

■ 40 CFR part 52 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 I—Delaware**

■ 2. In § 52.420, the table in paragraph (c) is amended by adding entries for Regulation 1148—Control of Stationary Combustion Turbine Electric Generating Unit Emissions at the end of the table to read as follows:

**52.420 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

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

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Regulation No. 1148 .....	Control of Stationary Combustion Turbine Electric Generating Unit Emissions			
Section 1.0 .....	Purpose .....	7/11/07	11/10/08 [Insert page number where the document begins].	New Section.
Section 2.0 .....	Applicability .....	7/11/07	11/10/08 [Insert page number where the document begins].	New Section.
Section 3.0 .....	Definitions .....	7/11/07	11/10/08 [Insert page number where the document begins].	New Section.
Section 4.0 .....	NO <sub>x</sub> Emissions Limitations.	7/11/07	11/10/08 [Insert page number where the document begins].	New Section.
Section 5.0 .....	Monitoring and Reporting.	7/11/07	11/10/08 [Insert page number where the document begins].	New Section.
Section 6.0 .....	Recordkeeping .....	7/11/07	11/10/08 [Insert page number where the document begins].	New Section.
Section 7.0 .....	Penalties .....	7/11/07	11/10/08 [Insert page number where the document begins].	New Section.

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[FR Doc. E8-26398 Filed 11-7-08; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 52**  
[EPA-R05-OAR-2004-IL-0003; FRL-8730-4]  
**Approval and Promulgation of Air Quality Implementation Plans; Illinois; CILCO (AmerenEnergy) Edwards**  
**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is responding to comments and taking final action on a July 29, 2003, site-specific sulfur dioxide (SO<sub>2</sub>) State Implementation Plan revision request for the Central Illinois Light Company E.D. Edwards Generating Station, now known as AmerenEnergy Resources Generating Company, Edwards Power Plant, in Peoria County, Illinois. This request amends the facility's emission limits to allow a higher SO<sub>2</sub> emission limit for one of its boilers. To offset this increase, the revised rule includes a group limit for the facility's three boilers which is