www.regulations.gov is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the FOR FURTHER INFORMATION CONTACT section.

FOR FURTHER INFORMATION CONTACT: Idalia Perez, EPA Region IX, (415) 972–3248, perez.idalia@epa.gov.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: AVAQMD Rule 1134, Stationary Gas Turbines and ICAPCD Rule 400.1, Stationary Gas Turbine(s)—Reasonably Available Control Technology (RACT). In the Rules and Regulations section of this Federal Register, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 27, 2011.

Jared Blumenfeld,
Regional Administrator, Region IX.
[FR Doc. 2012–817 Filed 1–17–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1043


RIN 2060–XXXX

Great Lakes Steamship Repower Incentive Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to simplify an existing provisions in our marine diesel engine program that is intended to encourage owners of Great Lakes steamships to repower those steamships with cleaner marine diesel engines. The simplified program would automatically permit the use of residual fuel, through December 31, 2025, in a steamship if it has been repowered with a certified Tier 2 or later marine diesel engine, provided the steamship was operated exclusively on the Great Lakes and was in service on October 30, 2009. Steamships are powered by old, inefficient steam boilers. Voluntary replacement of these boilers with modern fuel-efficient marine diesel engines would result in reductions of particulate matter and sulfur oxides, even while the replacement diesel engines are operated on higher sulfur residual fuel, and would provide human health and welfare benefits for the people who live in the Great Lakes region. Conversion to new diesel engines would also result in considerable carbon dioxide reductions and fuel savings. In the “Rules and Regulations” section of this Federal Register, we are making this modification to the Great Lakes steamship incentive program as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by February 17, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0928, by mail to: Environmental Protection Agency, Air Docket, Mail-code 6102T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the ADDRESSES section of the direct final rule located in the rules section of this Federal Register.

Public Hearing: If anyone contacts us requesting to speak at a public hearing on or before February 2, 2012, we will hold a public hearing. Additional information about the hearing would be published in a subsequent Federal Register notice.

FOR FURTHER INFORMATION CONTACT: Jean Marie Revelt, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: (734) 214–4822; fax number: (734) 214–4816; email address: revelt.jean-marie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why is EPA issuing this proposed rule?

This document proposes to take action on our national marine diesel emission control program. We have published a direct final rule to simplify our Great Lakes steamship repower incentive program in the “Rules and Regulations” section of this Federal Register because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for taking this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the ADDRESSES section of this document.

II. Does this action apply to me?

This action will affect companies that own steamships operating exclusively on the Great Lakes that were in service on October 30, 2009. The following table gives some examples of entities that may be affected by this rule; however, since these are only examples, you should carefully examine the regulations. You may direct questions regarding the applicability of this action as noted in FOR FURTHER INFORMATION CONTACT.
### III. Summary of Rule

EPA’s final rule for Category 3 marine engines and their fuels (75 FR 22896, April 30, 2010) exempted steamships from the sulfur limits that apply to fuel used in ships operating on the Great Lakes beginning August 1, 2012 (40 CFR 1043.95(a)). This means steamships can continue to operate indefinitely on high sulfur residual fuel. However, because steamship engines have high emissions and low fuel efficiency, we included a provision to encourage owners of Great Lakes steamships to voluntarily replace their steam boilers with cleaner, more fuel-efficient marine diesel engines (40 CFR 1043.95(b)(4)(iv)). The current voluntary repower incentive is in the form of relief through EPA’s economic hardship program, through which an owner may apply for a relaxation of the Great Lakes fuel sulfur limits for fuel used by the repowered diesel ship for a defined period of time. The use of lower price, higher sulfur residual fuel can help offset vessel repower costs.

EPA believes that the goal of repowering the fleet of Great Lakes steamships could be achieved more effectively by adding a new incentive program to provide an automatic, time-limited fuel waiver for repowered steamships. Instead of applying for relief through the economic hardship program, Great Lakes steamship owners who voluntarily repower their steamships with diesel engines would automatically qualify for a waiver that would allow the use of residual fuel in the replacement diesel engines that exceed the global and ECA sulfur limits that otherwise apply to the fuel used in marine diesel engines operated on the U.S. portions of the Great Lakes. This automatic Great Lakes steamship repower fuel waiver would be valid through December 31, 2025; after that date, repowered steamships would be required to comply with the Great Lakes ECA fuel sulfur limits for diesel engines. To qualify for this automatic fuel sulfur waiver, the steamship must be exempt from existing requirements pursuant to 40 CFR 1043.95(a) in that it must operate exclusively on the Great Lakes and must have been in service on October 30, 2009, where “in service” means operating as a steamship, but is not limited to actually performing that service on that day. In addition, the replacement engine must be a Tier 2 or cleaner marine diesel engine as specified in 40 CFR 1042.104.

Voluntary replacement of steam engines with cleaner, more efficient Tier 2 or better marine diesel engines through this modification to our steamship repower incentive program would provide important air quality and energy benefits immediately, due to the improved fuel efficiency of the diesel engines, and even larger benefits in the long term, when the repowered ships will use fuel that complies with the 1.00 ppm sulfur limit on the Great Lakes.

For additional discussion of the proposed rule changes, see the direct final rule EPA has published in the “Rules and Regulations” section of today’s Federal Register. This proposal incorporates by reference all the reasoning, explanation, and regulatory text from the direct final rule.

### V. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review

This proposed rule is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This proposed rule would merely add an automatic waiver provision to encourage Great Lakes steamship owners to repower their vessels with cleaner marine diesel engines. There are no costs associated with this proposed rule because steamship owners are not required to repower their ships.

#### B. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The information collection requirements are not enforceable until OMB approves them.

The program contained in this rule is a voluntary incentive program to encourage owners of Great Lakes steamship to repower their ships with diesel engines. A steamship owner taking advantage of the automatic fuel waiver is required to notify EPA’s designated certification officer of the intention to use this provision. The notification must include a description of the project, the expected timeline, and other relevant information. The owner is also required to notify EPA’s designated certification officer at completion of the project. The purpose of the reporting is to ensure that a repower has taken place, with a qualified EPA-certified engine. Because this program is voluntary, a steamship owner would provide this information only if the provision is exercised. When the project is completed, EPA will provide the owner with a statement that the repowered ship is covered by the steamship repower incentive program fuel sulfur waiver, which is to be kept onboard for compliance purposes.

There are potentially six companies affected, which own the twelve remaining diesel steamships that operate on the Great Lakes. It is not known how many of these companies will actually take advantage of the waiver, or when they would repower. However, it is likely that the repowers would occur prior to 2015, to maximize the fuel savings afforded by the fuel sulfur waiver before it expires on December 31, 2025.

The total estimated burden associated with the automatic steamship repower incentive program is 14.0 hours annually. This is based on two steamship owners repowering two steamships in each of three years and an estimated 3.5 annual labor hours for each manufacturer to prepare and submit the required information for compliance with the terms of Executive Order 12866.

---

1 Category 3 marine engines are diesel engines with per cylinder displacement at or above 30 liters.
2 For the purpose of this program, “Great Lakes” means all the streams, rivers, lakes, and other bodies of water that are within the drainage basin of the St. Lawrence River, west of Anticosti Island (40 CFR 1043.20).
3 Compliance can be through switching to ECA-compliant fuel or through the installation and use of an exhaust gas cleaning system (scrubber) or other technology or procedure that achieves equivalent sulfur emissions. See Section V.C of the preamble for our Category 3 FRM for a discussion of compliance strategies.

### Category and NAICS Codes

<table>
<thead>
<tr>
<th>Category</th>
<th>NAICS Codes</th>
<th>Examples of potentially regulated entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industry</td>
<td>483113</td>
<td>Coastal and Great Lakes Freight Transportation.</td>
</tr>
<tr>
<td>Industry</td>
<td>483114</td>
<td>Coastal and Great Lakes Passenger Transportation.</td>
</tr>
<tr>
<td>Industry</td>
<td>336611</td>
<td>Shipbuilding and repairing.</td>
</tr>
<tr>
<td>Industry</td>
<td>811310</td>
<td>Engine repair, remanufacture, and maintenance.</td>
</tr>
</tbody>
</table>
substantial number of small entities, the
significant economic impact on
number of small entities.
impacts of today's proposed rule on
owned and operated and is not
profit enterprise which is independently
a small organization that is any not-for-

Administration size standards); (4) a
million (based on Small Business
with annual receipts less than $7
and equipment repair and maintenance
commercial and industrial machinery
small business primarily engaged in
Administration size standards); (3) a
employees (based on Small Business
by NAICS codes
passenger transportation on the Great
Business Administration size
Great Lakes as defined by NAICS codes
by NAICS code 336611 with 1,000 or
fewer employees (based on Small Business
Administration size standards); (2) a small business that is
primarily engaged in freight or
passenger transportation on the Great
Lakes as defined by NAICS codes
483113 and 483114 with 500 or fewer
employees (based on Small Business
Administration size standards); (3) a
small business primarily engaged in
commercial and industrial machinery
and equipment repair and maintenance
with annual receipts less than $7
million (based on Small Business
Administration size standards); (4) a
small governmental jurisdiction that is a
government of a city, county, town,
school district or special district with a
population of less than 50,000; and (5)
a small organization that is any not-for-
profit enterprise which is independently
owned and operated and is not
dominant in its field.

After considering the economic
impacts of today's proposed rule on
small entities, I certify that proposed
rule would not have a significant
economic impact on a substantial
number of small entities.
In determining whether a rule has a
significant economic impact on a
substantial number of small entities, the
impact of concern is any significant
adverse economic impact on small
entities, since the primary purpose of
the regulatory flexibility analyses is to
identify and address regulatory
alternatives "which minimize any
significant economic impact of the rule
on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule
will not have a significant economic
impact on a substantial number of small
entities if the rule relieves regulatory
burden, or otherwise has a positive
economic effect on all of the small
entities subject to the rule.
This proposed rule would merely add
an automatic waiver provision to
encourage Great Lakes steamship
owners to repower their vessels with
cleaner marine diesel engines. There are
no costs and therefore no regulatory
burden associated with this rule because
steamship owners are not required to
repower their ships and can continue
using their vessels indefinitely. This
Great Lakes steamship repower
incentive program would assist those
steamship owners who choose to
voluntarily repower their ships,
however, by allowing them to use
lower-price residual fuel in the
repowered diesel ship for a specified
period of time, which may help them
cover the costs of the repower project.
We have therefore concluded that
today's final rule will not increase
regulatory burden for affected small
entities.

D. Unfunded Mandates Reform Act
This action contains no Federal
mandates under the provisions of Title
II of the Unfunded Mandates Reform
1538 for State, local, or tribal
governments or the private sector. The
action imposes no enforceable duty on
any State, local or tribal governments or
the private sector. Therefore, this action
is not subject to the requirements of
sections 202 or 205 of the UMRA.
This action is also not subject to the
requirements of section 203 of UMRA
because it contains no regulatory
requirements that might significantly or
uniquely affect small governments. This
proposed rule would merely add an
automatic waiver provision to
encourage Great Lakes steamship
owners to repower their vessels with
cleaner marine diesel engines. None of
the thirteen U.S. steamships operating
on the Great Lakes as of October 30,
2009 are owned or operated by a State.
Thus, Executive Order 13132 does not
apply to this action.

E. Executive Order 13132: Federalism
This action does not have federalism
implications. It would 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 proposed
final rule would merely add an
automatic waiver provision to
encourage Great Lakes steamship
owners to repower their vessels with
cleaner marine diesel engines. None of
the thirteen U.S. steamships operating
on the Great Lakes as of October 30,
2009 are owned or operated by a State.
Thus, Executive Order 13132 does not
apply to this action.

F. Executive Order 13175: Consultation
and Coordination With Indian Tribal
Governments
This action does not have tribal
implications, as specified in Executive
Order 13175 (65 FR 67249, November 9,
2000). This proposed rule would merely
add an automatic waiver provision to
encourage Great Lakes steamship
owners to repower their vessels with
cleaner marine diesel engines. None of
the thirteen U.S. steamships operating
on the Great Lakes as of October 30,
2009 are owned or operated by an
Indian tribal government. Thus,
Executive Order 13175 does not apply
to this action.

G. Executive Order 13045: Protection of
Children From Environmental Health
and Safety Risks
This action is not subject to Executive
Order 13045 (62 FR 19885, April 23,
1997) because it is not economically
significant as defined in Executive
Order 12866, and because the Agency
does not believe the environmental
health or safety risks addressed by this
action present a disproportionate risk to
children. This proposed rule would
merely add an automatic waiver
 provision to encourage Great Lakes
steamship owners to repower their
vessels with cleaner marine diesel
engines. To the extent Great Lakes
steamship owners take advantage of this
incentive program, their action would
provide immediate air quality and
energy benefits, due to the improved
fuel efficiency of the diesel engines, and
even larger benefits in the long term,
when the repowered ship would use
fuel that complies with the 1.00 ppm
sulfur limit on the Great Lakes. These
emission reductions would improve air
quality for all people who live in the
Great Lakes region, including children
and other sensitive populations.
This proposed rule addresses the hospital-specific limitation on Medicaid disproportionate share hospital (DSH) payments under the Social Security Act. Under this limitation, DSH payments to a hospital cannot exceed the uncompensated costs of furnishing hospital services by the hospital to individuals who are Medicaid-eligible or “have no health insurance (or other source of third party coverage) for the services furnished during the year.” This rule would provide that the quoted phrase would refer in context to a lack of coverage on a service-specific basis, so that the calculation of uncompensated care for purposes of the hospital-specific DSH limit would include the cost of each service furnished to an individual who had no health insurance or other source of third party coverage for that service.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on February 17, 2012.

ADDRESSES: In commenting, please refer to file code CMS–2315–P. Because of staff and resource limitations, we cannot accept comments by facsimile (Fax) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. Electronically. You may submit electronic comments on this regulation to http://www.regulations.gov. Follow the “Submit a comment” instructions.

2. By regular mail. You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2315–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2315–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. By hand or courier. Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period: