EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	* * *	*	* *	*
10–2.390	Kansas City Area Transportation Conformity Requirements.	7/30/07	10/18/07 *[insert FR page number where the document begins]*.	
*	* * *	*	* *	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area 10				
*	* * *	*	* *	*
10–5.480	St. Louis Area Transportation Conformity Requirements.	7/30/07	10/18/07 *[insert FR page number where the document begins]*.	
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[FR Doc. E7–20375 Filed 10–17–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2005–VA–0012; FRL–8484–4]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Virginia; Control of Total Reduced Sulfur From Pulp and Paper Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a Section 111(d) Plan revision submitted by the Commonwealth of Virginia. The revision consists of amendments to the regulation that controls total reduced sulfur (TRS) from pulp and paper mills. This action is being taken under the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on November 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2005–VA–0012. All documents in the docket are listed in the *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 *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 Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: LaKeshia Robertson, (215) 814–2113, or by e-mail at *robertson.lakeshia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 3, 2007 (72 FR 36413), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of amendments to Virginia's Section 111(d) Plan to control TRS from pulp and paper mills (9 VAC 5, Chapter 40, Article 13, Rule 4–13). The formal SIP revision was submitted by the Commonwealth of Virginia on June 20, 2005. Other specific requirements of Virginia's plan to control TRS from pulp and paper mills and the rational for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed.

Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or

approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *.'' The opinion concludes that ''[r]egarding (10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

III. Final Action

EPA is approving the amendments to an existing regulation (9 VAC 5, Chapter 40, Article 13, Rule 4–13) as a revision to the Virginia Section 111(d) Plan submitted on June 20, 2005.

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 December 17, 2007. 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 amendments to Virginia's Section 111(d) Plan, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: October 10, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart VV—Virginia

■ 2. Section 62.11610 is amended by adding paragraph (d) to read as follows:

§ 62.11610 Identification of plan.

* * * * *

(d) On June 20, 2005, the Commonwealth of Virginia submitted changes to its 111(d) Plan. The changes consist of amendments to 9 VAC 5, Chapter 40, Part II, Article 13, Sections 5–40–1660, 5–40–1670 (definitions of Agreement (removed), Cross recovery furnace (revised), Neutral sulfite semichemical pulping operation (added), New design recovery furnace (added), Pulp and paper mill (added), Semichemical pulping process (added), Straight kraft recovery furnace (revised), Total reduced sulfur (revised)), 5–40–1690, 5–40–1750, 5–40–1770B. and C., 5–40–1780D., and 5–40–1810. The State effective date is April 1, 1999.

[FR Doc. E7–20597 Filed 10–17–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 222

[Docket No. FRA–2007–27285, Notice No. 2]

RIN 2130–AB86

Use of Locomotive Horns at Highway-Rail Grade Crossings; Technical Amendments to Appendix D

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On August 9, 2007, FRA published a direct final rule in the **Federal Register** which made technical amendments to Appendix D of 49 CFR Part 222. As reflected in DOT Docket No. FRA–2007–27285, FRA did not receive any comments or requests for an oral hearing on the direct final rule. Therefore, FRA is issuing this document to confirm that the direct final rule took effect on October 9, 2007, the date specified in the rule.

DATES: The direct final rule published at 72 FR 44790, August 9, 2007, is confirmed effective October 9, 2007.

FOR FURTHER INFORMATION CONTACT: Ronald Ries, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: (202) 493–6299); or Kathryn Shelton, Office of Chief Counsel, Mail Stop 10, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: (202) 493–6038).

SUPPLEMENTARY INFORMATION: Pursuant to FRA's direct final rulemaking procedures set forth at 49 CFR 211.33, FRA is issuing this document to inform the public that it has not received any comments or requests for an oral hearing on the direct final rule that was published in the **Federal Register** on August 9, 2007 (72 FR 44790). The direct final rule made technical amendments to Appendix D of 49 CFR Part 222 to update information contained in the appendix and inform the public of the most recent value of the Nationwide Significant Risk Threshold. As no comments or requests for an oral hearing were received by FRA, this document informs the public that the effective date of the direct final rule remains as October 9, 2007, the date specified in the rule.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

Issued in Washington, DC, on October 15, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E7–20605 Filed 10–17–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AG70

Injurious Wildlife Species; Black Carp (Mylopharyngodon piceus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) adds all forms of live black carp (*Mylopharyngodon piceus*), gametes, viable eggs, and hybrids to the list of injurious fish under the Lacey Act. By this action, the Service prohibits the importation into or transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States of live black carp, gametes, viable eggs, and hybrids. The best available information indicates that this action is necessary to protect the interests of wildlife and wildlife resources from the purposeful or accidental introduction and subsequent establishment of black carp in the ecosystems of the United States. Live black carp, gametes, viable eggs, and hybrids can be imported only by permit for scientific, medical, educational, or zoological purposes, or without a permit by Federal agencies solely for their own use. Interstate transportation of live black carp, gametes, viable eggs, and hybrids currently held within the United States will be allowed only by permit. Interstate transportation permits may be issued for scientific, medical, educational, or zoological purposes.

DATES: This rule is effective for all forms of live black carp on November 19, 2007.

FOR FURTHER INFORMATION CONTACT: Kari Duncan, Chief, Branch of Invasive Species, Division of Environmental Quality, at (703) 358–2464 or *kari_duncan@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

In February 2000, the U.S. Fish and Wildlife Service (Service or we) received a petition from the Mississippi Interstate Cooperative Resources Association (MICRA) to list the black carp (*Mylopharyngodon piceus*) under the injurious wildlife provision of the Lacey Act (18 U.S.C. 42). The petition was based upon concerns about the potential impacts of black carp on native freshwater mussels and snails in the Mississippi River basin. In October 2002, the Service received a petition signed by 25 members of Congress representing the Great Lakes region to add black, bighead, and silver carp to the list of injurious wildlife under the Lacey Act. A follow-up letter identified seven additional Legislators who supported the petition.

Summary of Previous Actions

On June 2, 2000, we published in the **Federal Register** (65 FR 35314) an advance notice of proposed rulemaking (ANPR) to seek comments on whether or not we should propose to list black carp