

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by adding in numerical

order the entry for “10–6.280” to read as follows:

§ 52.1320 Identification of plan.

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(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
10–6.280	Compliance Monitoring Usage	12/30/94	May 16, 2001 66 FR 27032	

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL–6978–8]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act (CAA), New Hampshire Department of Environmental Services (NH DES) requested approval to implement and enforce State permit terms and conditions that substitute for the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and the National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. The Environmental Protection Agency (EPA) has reviewed this request and has found that it satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting NH DES the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements.

DATES: This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse comments by June 15,

2001. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Steven Rapp, Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP) at the EPA New England office listed below. Copies of NH DES's request for approval are available for public inspection at the following locations: U.S. Environmental Protection Agency, EPA-New England, Office of Ecosystem Protection, One Congress Street, Suite 1100, Boston, MA 02114–2023.

New Hampshire Department of Environmental Services, Air Resources Division, 6 Hazen Drive, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023, Telephone: (617) 918–1656.

SUPPLEMENTARY INFORMATION:**I. Background**

On April 15, 1998, the Environmental Protection Agency (EPA) promulgated the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry (see 63 FR 18617), which has been codified in 40 CFR part 63, subpart S, “National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry” (Pulp and Paper MACT I). Subsequently, on January 12, 2001, EPA promulgated the National Emission Standard for Hazardous Air Pollutants from the Pulp and Paper Industry (see 66 FR 3180) which has been codified in 40 CFR part 63, subpart MM, “National Emission Standards for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone

Semichemical Pulp Mills’ (Pulp and Paper MACT II). The only sources currently subject to subpart S and subpart MM in New Hampshire are Groveton Paper Board Inc. of Groveton, NH (Groveton) and Pulp & Paper of America, LLC of Berlin, NH (Pulp & Paper of America).

On January 23, 2001, New Hampshire Department of Environmental Services (NH DES) requested delegation of subpart S and subpart MM under § 63.94 for both Groveton and Pulp & Paper of America. EPA received the request on January 30, 2001. NH DES requested to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable requirements of subpart S and subpart MM under the process outlined in 40 CFR 63.94. As part of its request to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable Federal section 112 standards, NH DES also requested approval of its demonstration that NH DES has adequate authorities and resources to implement and enforce all Clean Air Act (CAA) section 112 programs and rules. The purpose of this demonstration is to streamline the approval process for future CAA section 112(l) applications.

II. EPA Action

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (see 65 FR 55810, dated September 14, 2000). Under these regulations, a local air pollution control agency has the option to request EPA's approval to substitute alternative

requirements and authorities that take the form of permit terms and conditions instead of source category-specific regulations. This option is referred to as the equivalency by permit (EBP) option. To receive EPA approval using this option, the requirements of 40 CFR 63.91 and 63.94 must be met.

The EBP process comprises three steps. The first step (*see* 40 CFR 63.94(a) and (b)) is the “up-front approval” of the state EBP program. The second step (*see* 40 CFR 63.94(c) and (d)) is EPA review and approval of the state alternative section 112 requirements in the form of pre-draft permit terms and conditions. The third step (*see* 40 CFR 63.94(e)) is incorporation of the approved pre-draft permit terms and conditions into specific title V permit and the title V permit issuance process itself. The final approval of the state alternative requirements that substitute for the Federal standard does not occur for purposes of the Act, section 112(l)(5), until the completion of step three.

The purpose of step one, the “up-front approval” of the EBP program, is three fold: (1) It ensures that NH DES meets the 63.91(b) criteria for up-front approval common to all approval options; (2) it provides a legal foundation for NH DES to replace the otherwise applicable Federal section 112 requirements with alternative, federally enforceable requirements that will be reflected in final title V permit terms and conditions; and (3) it delineates the specific sources and Federal emission standards for which NH DES will be accepting delegation under the EBP option.

Under § 63.94(b) and § 63.91, NH's request for approval is required to include the identification of the sources and the source categories for which the state is seeking authority to implement and enforce alternative requirements, as well as a one time demonstration that the State has an approved title V operating permit program that permits the affected sources. After reviewing the request for approval of NH DES's EBP program for subpart S and subpart MM, EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.94. Accordingly, EPA approves NH DES's request to implement and enforce alternative requirements in the form of title V permit terms and conditions for Groveton and Pulp & Paper of America for subpart S and subpart MM. The requirement applicable to the sources and the “applicable requirement” for title V purposes remains the Federal section 112 requirement until EPA has

approved the alternative permit terms and conditions and the final title V permit is issued.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled “Regulatory Planning and Review.” This rule is not subject to Executive Order 13045, entitled, “Protection of Children from Environmental Health Risks and Safety Risks,” because it is not an “economically significant” action under Executive Order 12866.

B. Executive Order 13175

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. This Federal action allows the state of New Hampshire to implement equivalent alternative permit requirements to replace pre-existing requirements under Federal law and does not have tribal implications. Thus, Executive Order 13175 does not apply to this rule.

C. Executive Order 13132

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 Executive 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.”

This final rule does not have federalism implications. It 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 simply allows New Hampshire to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C 601 et seq. generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.94 do not create any new requirements but simply allows the state to implement and enforce permit terms in place of federal requirements that the EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action allows New Hampshire to implement equivalent alternative requirements to replace pre-existing requirements under Federal law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

F. 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).

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, § 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, and business practices) that are developed or adopted by voluntary consensus standards 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 did not consider the use of any voluntary consensus standards.

H. 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 July 16, 2001. 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 may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 2, 2001.

Ira W. Leighton,

Acting Regional Administrator, EPA—New England.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraphs (a)(29)(i) and (a)(29)(ii) to read as follows:

§ 63.99 Delegated Federal Authorities

(a) * * *

(29) New Hampshire.

(i) [Reserved]

(ii) New Hampshire Department of Environmental Services (NH DES) may implement and enforce alternative requirements in the form of title V permit terms and conditions for Groveton Paper Board Inc. of Groveton, NH and Pulp & Paper of America, LLC of Berlin, NH for subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and subpart MM—National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical

Pulp Mills. This action is contingent upon NH DES including, in title V permits, terms and conditions that are no less stringent than the Federal standard and have been approved by EPA. In addition, the requirement applicable to the source remains the Federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[WV057-6016; FRL-6979-8]

Determination of Attainment of the NAAQS for PM-10 in the Weirton, West Virginia Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA has determined that the Weirton, West Virginia PM-10 Moderate nonattainment area (comprised of the City of Weirton) attained the National Ambient Air Quality Standards (NAAQS) for Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) by its applicable December 31, 2000 attainment date. This determination is based upon monitored air quality data for the PM-10 NAAQS during the years 1998-2000. This determination of attainment does not redesignate the Weirton area to attainment for PM-10. The Clean Air Act requires that for an area to be redesignated, five criteria must be satisfied including the submittal of a maintenance plan as a State Implementation Plan (SIP) revision.

DATES: This rule is effective on July 2, 2001 without further notice, unless EPA receives adverse written comment by June 15, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David Arnold, Chief, Air Quality Planning and Information Services Branch, EPA Region III, 3AP21, 1650 Arch Street, Philadelphia, PA 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division,