Organization and functions (Government agencies), Whistleblowing.

Accordingly, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. Section 0.89a of part 0, subpart P, is amended by revising paragraph (a) to read as follows:

§ 0.89a Delegations respecting claims against the FBI.

(a) The Director of the Federal Bureau of Investigation is authorized to exercise the power and authority vested in the Attorney General Under 28 U.S.C. 2672 to consider, ascertain, adjust, determine, and settle any claim thereunder not exceeding $50,000 in any one case caused by the negligent or wrongful act or omission of any employee of the Federal Bureau of Investigation.

* * * * *

Dated: July 11, 2000.

Janet Reno,

Attorney General.

[FR Doc. 00–18213 Filed 7–18–00; 8:45 am]

BILLING CODE 4410–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA099–5048; FRL–6837–5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of Revision to Opacity Limit for Drier Stacks at Georgia-Pacific Corporation Softboard Plant in Jarratt, VA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revised opacity limit for drier zone stacks #1 and #2 associated with the softboard drier at the Jarratt Softboard Plant. The plant is owned by Georgia-Pacific Corporation (GP) and is located in Jarratt, VA. The new opacity limit is contained in a consent agreement between the Commonwealth of Virginia and GP. The consent agreement was submitted by the Department of Environmental Quality of the Commonwealth of Virginia (VADEQ) as a revision to its State Implementation Plan (SIP) on February 3, 1999. The increased opacity limit only applies to the drier zone stacks which emit particulate emissions while drying the softboard. Mass emission limits from the drier are not being changed.

DATES: This rule is effective on September 18, 2000 without further notice, unless EPA receives adverse written comment by August 18, 2000. 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 Ms. Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available 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; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, or by e-mail at knapp.ruth@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' are used we mean EPA.

Table of Contents

I. What Is the EPA Approving?

We are approving Consent Order No. 50253 (effective September 28, 1998) signed by John M. Daniels for Dennis H. Treacy, Director of the Department of Environmental Quality of the Commonwealth of Virginia and Mr. John Masaschi, Vice President, Industrial Wood Products, Georgia-Pacific Corporation, as a SIP revision. The consent order was submitted, as a SIP revision, to EPA on February 3, 1999. The consent order provides a revised opacity limit for the two drier zone stacks from the drier located at the Jarratt Softboard Plant located in Jarratt, Virginia. The revised limit allows for a higher opacity limit; however, mass emission rates are not being changed.

II. What Facilities/Operations Does This Action Apply To?

We are approving a revised opacity limit for a process at a GP Softboard plant. The plant manufactures softboard used in construction. Manufacturing begins with refining wood chips from pine and hardwood to produce wood fiber. Wax is added to the fiber to give it water resistance and then asphalt slurry is added as a binder. A continuous ribbon of wet mat is formed and conveyed through a press to remove water. The mat is then cut and placed into the drier. Dried mats are then re-sawn to construction dimensions. Particulate emissions from the drier are emitted from two drier zone stacks and nine roof vents. The revised opacity limit applies to emissions from drier zone stack #1 and drier zone stack #2 only.

III. What Are the Provisions of the New Opacity Limit?

The new limit is contained in the consent agreement which states ''GP shall not exceed 50% opacity from the Softboard drier zone stacks one and two except for one six-minute period in any one hour of not more than 60% opacity * * *'' Although the language of the Commonwealth's consent order provides that the source may also have an exemption from the opacity limit during startup, shutdown and malfunction, the Commonwealth of Virginia has not included these provisions as part of its SIP revision request. Therefore, the portion of the text of Provision 1 of Section E of Consent Order No. 50253 which reads ''* * * and during periods of start-up, shutdown and malfunction.'' are not being approved or incorporated into the Virginia SIP. GP must conduct quarterly visible emission evaluations of drier zone stacks #1 and #2. Stack tests must be performed on drier zone stacks #1 and #2 every two years. GP must provide stack tests results to VADEQ in addition to maintaining visible emission records.

IV. What Are the Current Limits on These Sources?

The drier zone stacks #1 and #2 are currently subject to Virginia Regulations 9 VAC 5–40–80 Standard for Visible Emissions which provides for visible emissions up to 20% opacity except for one six-minute period in any one hour of not more than 60% opacity. The mass

emission limit for the drier is found in 9 VAC 5–40–260. This regulation provides for a mass particulate limit based on the process weight rate which varies depending on how much softboard is being processed.

V. What Supporting Material Did Virginia Provide?

Virginia provided information on emissions from the drier vents and the stacks along with opacity readings. Stack testing and visible emissions readings were performed in July 1997 and September 1997. Stack test data indicates that the drier is within its allowable emission limit while visible emissions data indicates that one of the drier zone stacks is out of compliance with the 20% opacity limit. The average opacity observed during July testing was 38% with some individual 15 second readings as high as 55%. The average opacity during the September testing was 50%.

VI. What Are the Environmental Effects of This Action?

The revised opacity limit will allow darker smoke to be emitted from specific stacks at the facility, then does the current SIP. No mass emission limits are being revised and the revised opacity limit is protective of the existing mass emission limit.

VII. Special Provisions Pertaining to 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 asserting either 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, 1997, 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, 1997 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 Clean Air Act, 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.

VIII. EPA Rulemaking Action

We are approving, through direct final rulemaking, Consent Order No. 50253, except as noted above, submitted by the Commonwealth of Virginia as a SIP revision on February 3, 1999. The revision consists of a revised opacity limit for drier zone stack #1 and #2 located at the Georgia-Pacific softboard facility in Jarratt, VA.

We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 18, 2000 without further notice unless we receive adverse comment by August 18, 2000. Should we receive such comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action must do so at this time.

IX. Administrative Requirements

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. 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 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act. 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. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability that only effects the Georgia-Pacific Corporation Softboard plant located in Jarratt, VA.

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 September 18, 2000. 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 related to the Georgia-Pacific Corporation Softboard plant located in Jarratt, VA 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, Intergovernmental relations, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 30, 2000.

Bradley M. Campbell,

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 VV—Virginia

2. In § 52.2420, the table in paragraph (d) is amended by adding an entry for ''Georgia-Pacific Corporation—Jarratt Softboard Plant'' to the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(d) * * *

EPA—APPROVED VIRGINIA SOURCE-SPECIFIC REQUIREMENTS

Source Name	Permit/order or registration No.	State effective date	EPA approval date	40 CFR part 52 citation
*	*	*	*	*
Georgia-Pacific Corporation—Jarratt Softboard Plant.	Registration No. 50253	September 28, 1998	[Insert 7/19/2000 and page cite].	In Section E, Provision 1, the portion of the text which reads ''* * * and during periods of start-up, shutdown, and malfunction.'' is not part of the SIP.

[FR Doc. 00–18105 Filed 7–18–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX NO. MD097–3050a; FRL–6735–4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revised 15% Plan for the Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is converting its conditional approval of a State Implementation Plan (SIP) revision submitted by the State of Maryland to a full approval. This revision satisfies the 15 percent reasonable further progress implementation plan (15% plan) requirements of the Clean Air Act (the Act) for Maryland's portion of the Metropolitan Washington, DC ozone nonattainment area (the Washington, DC area). EPA is converting its conditional approval to a full approval because the State has fulfilled the conditions listed in the conditional approval of the original 15% plan for the Maryland portion of the Washington, DC area. The intended effect of this action is to covert our conditional approval of the 15% plan submitted by the State of Maryland to a full approval.

DATES: This direct final rule is effective on September 18, 2000 without further notice, unless EPA receives adverse comment by August 18, 2000. If adverse comment is received, EPA 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: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency—Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103. Copies of the documents relevant to this action are available 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224. Persons interested in examining these documents should schedule an appointment with the contact person (listed below) at least 24 hours before the visiting day. Copies of the documents relevant to this action are also available at the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, at the EPA Region III address above, or by e-mail at cripps.christopher@epa.gov. Please note that while questions may be submitted via e-mail, comments on the rulemaking action must be submitted, in writing, to the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

On May 5, 1998 the Maryland Department of the Environment (MDE) submitted a revision to its SIP for the Washington, DC area. The revision consists of an amended plan to achieve a 15% reduction from 1990 base year levels in volatile organic compound (VOC) emissions. Maryland's original 15% plan for the Maryland portion of the Washington, DC area was conditionally approved on September 23, 1997 (62 FR 49611). Maryland's revisions to its 15% plan were made to satisfy the conditions imposed in the September 23, 1997 conditional approval.

The Washington, DC ozone nonattainment area consists of the District of Columbia, five counties in Northern Virginia and Calvert, Charles, Frederick, Montgomery, and Prince George's Counties in Maryland.

Virginia, Maryland and the District all must demonstrate reasonable further progress for the Washington, DC nonattainment area. The Commonwealth of Virginia, State of Maryland and the District of Columbia in conjunction with municipal planning organizations collaborated on a coordinated 15% plan for the entire Washington, DC area (regional 15% plan). This was done under the auspices of the regional air quality planning committee, the Metropolitan Washington Air Quality Committee (MWAQC), and with the assistance of the local municipal planning organization, the Metropolitan Washington Council of Governments (MWCOG), to ensure coordination of air quality and transportation planning. Although the plan was developed by a regional approach, each jurisdiction is required to submit the 15% plan to EPA for approval as a revision to its SIP.

Because the reasonable further progress requirements such as the 15% plan affect transportation improvement plans, municipal planning organizations have historically been heavily involved in air quality planning in the Washington, DC area. As explained in further detail below, the regional 15% plan determined the regional target level, regional projections of growth and finally the total amount of creditable reductions required under the reasonable further progress requirement in the entire Washington, DC area. Maryland, Virginia and the District agreed to apportion this total amount of required creditable reductions among the three jurisdictions. EPA is taking action today only on Maryland's revised 15% plan submittal for the Washington, DC area. This rulemaking is being taken to convert the September 23, 1997 conditional approval of Maryland's 15% plan for the Washington, DC area to a full approval based upon EPA's determination that Maryland has fulfilled the conditions imposed in the conditional approval.

A. Base Year Emission Inventory

The baseline from which states must determine the required reductions for 15% planning is the 1990 base year emission inventory. The inventory is broken down into several emissions source categories: stationary point, area, on-road mobile sources, and off-road mobile sources. The base year inventory includes emissions of all sources within the nonattainment area and certain large point sources within twenty-five miles of the boundary. A subset of the 1990 base year inventory is the 1990 rate-of-progress (ROP) inventory which includes only anthropogenic (man-made) emissions actually within the nonattainment area boundaries. EPA approved this base year inventory SIP revision for the entire Washington, DC area on July 8, 1998 (63 FR 36854).

B. Growth in Emissions Between 1990 and 1996

EPA has interpreted the Act to require that reasonable further progress towards attainment of the ozone standard must be obtained after offsetting any growth expected to occur over that period. Therefore, to meet the 15% reasonable further progress requirement, a state must enact measures achieving sufficient emissions reductions to offset projected growth in VOC emissions, in addition to a 15% reduction of VOC emissions. For a detailed description of the growth methodologies used by the State, please refer to EPA's conditional