

§ 97.102 Definitions.

* * * *

Biomass means—

(1) Any organic material grown for the purpose of being converted to energy;

(2) Any organic byproduct of agriculture that can be converted into energy; or

(3) Any material that can be converted into energy and is nonmerchantable for other purposes, that is segregated from other nonmerchantable material, and that is;

(i) A forest-related organic resource, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchantable material; or

(ii) A wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way tree trimmings.

* * * *

*Cogeneration unit means * * **

(3) Provided that the total energy input under paragraphs (2)(i)(B) and (2)(ii) of this definition shall equal the unit's total energy input from all fuel except biomass if the unit is a boiler.

* * * *

*Total energy input means * * ** Each form of energy supplied shall be measured by the lower heating value of that form of energy calculated as follows:

$$\text{LHV} = \text{HHV} - 10.55(W + 9H)$$

Where:

LHV = lower heating value of fuel in Btu/lb, HHV = higher heating value of fuel in Btu/lb,

W = Weight % of moisture in fuel, and H = Weight % of hydrogen in fuel.

* * * *

■ 17. Section 97.202 is amended as follows:

■ a. By adding in alphabetical order a new definition of "Biomass";

■ b. In the definition of "Cogeneration unit", by removing the period at the end of paragraph (2)(ii) and adding a semicolon in its place and by adding a new paragraph (3);

■ c. In the definition of "Permitting authority", by removing the words "in accordance with subpart CCC of this part"; and

■ d. By adding a sentence at the end of the definition of "Total energy input" to read as follows:

§ 97.202 Definitions.

* * * *

Biomass means—

(1) Any organic material grown for the purpose of being converted to energy;

(2) Any organic byproduct of agriculture that can be converted into energy; or

(3) Any material that can be converted into energy and is nonmerchantable for other purposes, that is segregated from other nonmerchantable material, and that is;

(i) A forest-related organic resource, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchantable material; or

(ii) A wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way tree trimmings.

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*Cogeneration unit means * * **

(3) Provided that the total energy input under paragraphs (2)(i)(B) and (2)(ii) of this definition shall equal the unit's total energy input from all fuel except biomass if the unit is a boiler.

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*Total energy input means * * ** Each form of energy supplied shall be measured by the lower heating value of that form of energy calculated as follows:

$$\text{LHV} = \text{HHV} - 10.55(W + 9H)$$

Where:

LHV = lower heating value of fuel in Btu/lb, HHV = higher heating value of fuel in Btu/lb,

W = Weight % of moisture in fuel, and H = Weight % of hydrogen in fuel.

* * * *

■ 18. Section 97.302 is amended as follows:

■ a. By adding in alphabetical order a new definition of "Biomass";

■ b. In the definition of "Cogeneration unit", by removing the period at the end of paragraph (2)(ii) and adding a semicolon in its place and by adding a new paragraph (3);

■ c. In the definition of "Permitting authority", by removing the words "in accordance with subpart CCCC of this part"; and

■ d. By adding a sentence at the end of the definition of "Total energy input" to read as follows:

§ 97.302 Definitions.

* * * *

Biomass means—

(1) Any organic material grown for the purpose of being converted to energy;

(2) Any organic byproduct of agriculture that can be converted into energy; or

(3) Any material that can be converted into energy and is nonmerchantable for other purposes, that is segregated from

other nonmerchantable material, and that is;

(i) A forest-related organic resource, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchantable material; or

(ii) A wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way tree trimmings.

* * * *

*Cogeneration unit means * * **

(3) Provided that the total energy input under paragraphs (2)(i)(B) and (2)(ii) of this definition shall equal the unit's total energy input from all fuel except biomass if the unit is a boiler.

* * * *

*Total energy input means * * ** Each form of energy supplied shall be measured by the lower heating value of that form of energy calculated as follows:

$$\text{LHV} = \text{HHV} - 10.55(W + 9H)$$

Where:

LHV = lower heating value of fuel in Btu/lb, HHV = higher heating value of fuel in Btu/lb,

W = Weight % of moisture in fuel, and H = Weight % of hydrogen in fuel.

* * * *

[FR Doc. E7-20447 Filed 10-18-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2005-VA-0011; FRL-8484-5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Control of Particulate Matter From Pulp and Paper Mills**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The revision pertains to amendments to an existing regulation to control particulate matter from pulp and paper mills. EPA is approving this SIP revision in accordance with 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-0011. 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 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 36404), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of Virginia's plan to control particulate matter emissions 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 21, 2005. Other specific requirements of Virginia's plan to control particulate matter from pulp and paper mills 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.

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) submitted on June 21, 2005 as a revision to the Virginia SIP.

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 18, 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 regulation to control particulate matter from pulp and paper mills, 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 10, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR 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 (c) is amended by revising the entries for Article 13 (title), 5–40–1660, 5–40–1670, 5–40–1750, and 5–40–1810 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Chapter 40 Existing Stationary Sources				
*	*	*	*	*
Part II Emission Standards				
*	*	*	*	*
Article 13 Emission Standards From Kraft Pulp and Paper Mills (Rule 4–13)				
5–40–1660	Applicability and designation of affected facilities.	04/01/99	10/19/07 [Insert page number where the document begins].	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–1670	Definitions	04/01/99	10/19/07 [Insert page number where the document begins].	Added: Neutral sulfite semichemical pulping operation, New design recovery furnace, Pulp and paper mill, Semichemical pulping process; Revised: Cross recovery furnace, Straight kraft recovery furnace, Total reduced sulfur; Removed: Agreement
*	*	*	*	*
5–40–1750	Compliance	04/01/99	10/19/07 [Insert page number where the document begins].	
*	*	*	*	*
5–40–1810	Permits	04/01/99	10/19/07 [Insert page number where the document begins].	
*	*	*	*	*

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[FR Doc. E7–20568 Filed 10–18–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81****[EPA–R05–OAR–2007–0173;FRL–8484–2]****Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Central Indiana To Attainment of the 8-Hour Ozone Standard****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: On March 26, 2007, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA approval of a redesignation of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby Counties (the Central Indiana Area) to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS). IDEM also requested EPA approval of an ozone maintenance plan for this area as a revision of the Indiana State Implementation Plan (SIP). The maintenance plan demonstrates maintenance of the ozone NAAQS in

this area through 2020 and establishes 2006 and 2020 motor vehicle Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x) emission budgets for this area. EPA is making a determination that the Central Indiana Area has attained the 8-hour ozone NAAQS. EPA is approving, as a SIP revision, the State's ozone maintenance plan for this area. Indiana has satisfied the criteria for the redesignation of the Central Indiana Area to attainment of the 8-hour ozone NAAQS, and, therefore, EPA is approving Indiana's ozone redesignation request for this area. Further, EPA is approving, for purposes of transportation conformity, the VOC and NO_x Motor Vehicle Emission Budgets (MVEBs) for 2006 and 2020 that are contained in the 8-hour ozone maintenance plan. EPA proposed these actions on July 31, 2007, and received only one comment in response supporting the proposed actions.

DATES: This final rule is effective on October 19, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID NO. EPA–R05–OAR–2007–0173. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, 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 at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886–6057 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, doty.edward@epa.gov.

SUPPLEMENTARY INFORMATION: In the following, whenever “we,” “us,” or “our” are used, we mean the United States Environmental Protection Agency.

Table of Contents

- I. What Is the Background for This Rule?
- II. What Comments Did We Receive on the Proposed Action?
- III. What Are Our Final Actions?
- IV. Statutory and Executive Order Review.