

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715–z–21; 42 U.S.C. 3535(d).

2. In § 200.202, revise paragraphs (b)(1) and (b)(2)(iii) as follows:

§ 200.202 How do I apply for placement on the Appraiser Roster?

* * * * *

(b) * * *

(1) You must be a state-certified appraiser with credentials that complied with the applicable certification criteria established by the Appraiser Qualification Board (AQB) of the Appraisal Foundation and in effect at the time the certification was awarded by the issuing jurisdiction; and

(2) * * *

(iii) HUD’s Credit Alert Verification Reporting System.

3. In § 200.204, revise paragraphs (a)(1)(ii), (c)(1) and (2) as follows:

§ 200.204 What actions may HUD take against unsatisfactory appraisers on the Appraiser Roster?

* * * * *

(a) * * *

(1) * * *

(ii) Losing standing as a state-certified appraiser due to disciplinary action in any state in which the appraiser is certified;

* * * * *

(c) * * *

(1) *Appraisers subject to state disciplinary action.* An appraiser whose state certification in any state has been revoked, suspended, or surrendered as a result of a state disciplinary action is automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals in any state until HUD receives evidence demonstrating that the state-imposed sanction has been lifted.

(2) *Expirations not due to state disciplinary action.* An appraiser whose certification in a state has expired is automatically suspended from the Appraiser Roster in that state and may not conduct FHA appraisals in that state until HUD receives evidence that demonstrates renewal, but may continue to perform FHA appraisals in other states in which the appraiser is certified.

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Dated: June 14, 2011.

Robert C. Ryan,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2011–17498 Filed 7–13–11; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0160; FRL–9438–8]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve submittals from the Commonwealth of Virginia pursuant to the Clean Air Act (CAA) sections 110(k)(2) and (3). These submittals address the infrastructure elements specified in CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone and fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS) and the 2006 PM_{2.5} NAAQS. This proposed action is limited to the following infrastructure elements which were subject to EPA’s completeness findings pursuant to CAA section 110(k)(1) for the 1997 8-hour ozone NAAQS dated March 27, 2008 and the 1997 PM_{2.5} NAAQS dated October 22, 2008: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof; and the following infrastructure elements for the 2006 PM_{2.5} NAAQS: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof.

DATES: Written comments must be received on or before August 15, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2010–0160 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA–R03–OAR–2010–0160, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2010–0160. EPA’s policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an “anonymous access system” which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, 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 in *http://www.regulations.gov* or in hard copy 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: Marilyn Powers, (215) 814–2380, or by e-mail at *powers.marilyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS (62 FR 38856) and a new PM_{2.5} NAAQS (62 FR 38652). The revised ozone NAAQS is based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. The new PM_{2.5} NAAQS established a health-based PM_{2.5} standard of 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations, and a twenty-four hour standard of 65 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA strengthened the 24-hour PM_{2.5} NAAQS from 65 µg/m³ to 35 µg/m³ on October 17, 2006 (71 FR 61144).

Section 110(a) of the CAA requires States to submit State Implementation Plans (SIPs) that provide for the implementation, maintenance, and enforcement of new or revised NAAQS within three years following the

promulgation of such NAAQS. In March of 2004, Earthjustice initiated a lawsuit against EPA for failure to take action against States that had not made SIP submissions to meet the requirements of sections 110(a)(1) and (2) for the 1997 8-hour ozone and PM_{2.5} NAAQS, *i.e.*, failure to make a “finding of failure to submit the required SIP 110(a) SIP elements.” On March 10, 2005, EPA entered into a Consent Decree with Earthjustice that obligated EPA to make official findings in accordance with section 110(k)(1) of the CAA as to whether States have made required complete SIP submissions, pursuant to sections 110(a)(1) and (2), by December 15, 2007 for the 1997 8-hour ozone NAAQS and by October 5, 2008 for the 1997 PM_{2.5} NAAQS. EPA made such findings for the 1997 8-hour ozone NAAQS on March 27, 2008 (73 FR 16205) and on October 22, 2008 (73 FR 62902) for the 1997 PM_{2.5} NAAQS. These completeness findings did not include findings relating to: (1) Section 110(a)(2)(C) to the extent that such subsection refers to a permit program as

required by Part D of Title I of the CAA; (2) section 110(a)(2)(I); and (3) section 110(a)(2)(D)(i)(I), which has been addressed by a separate finding issued by EPA on April 25, 2005 (70 FR 21147). Therefore, this action does not cover these specific elements.

This action also does not include the portions of 110(a)(2)(C), (D)(i)(II), and (J) as they pertain to a permit program as required by Part C of Title I of the CAA, and the portion of 110(a)(2)(D)(i)(II) as it pertains to visibility. These portions of these elements will be addressed by separate actions.

II. Summary of State Submittal

Virginia provided multiple submittals to satisfy the section 110(a)(2) requirements that are the subject of this proposed action for the 1997 8-hour ozone NAAQS and the 1997 and 2006 PM_{2.5} NAAQS. The submittals shown in Table 1 address the infrastructure elements, or portions thereof, identified in section 110(a)(2) that EPA is proposing to approve.

TABLE 1—110(A)(2) ELEMENTS, OR PORTIONS THEREOF, EPA IS PROPOSING TO APPROVE FOR THE 1997 OZONE AND PM_{2.5} NAAQS AND THE 2006 PM_{2.5} NAAQS FOR VIRGINIA

Submittal date	1997 8-Hour ozone	1997 PM _{2.5}	2006 PM _{2.5}
December 10, 2007	B, E, G, H, J, M.		
December 13, 2007	A, C, D(ii), F, G, K, L.		
July 10, 2008 .....	.....	B, E, G, H, J, K, M.	
September 2, 2008 .....	.....	A, C, D(ii), F, G, K, L.	
June 8, 2010	E(ii)	E(ii).	
June 9, 2010	E(ii)	E(ii).	
August 30, 2010 .....	.....	G	G.
April 1, 2011 .....	.....	.....	A, B, C, D(ii), E, F, G, H, J, K, L, M.

EPA analyzed the above identified submissions and is proposing to make a determination that such submittals meet the requirements of section 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, for the 1997 8-hour ozone and PM_{2.5} NAAQS and the 2006 PM_{2.5} NAAQS. A detailed summary of EPA’s review of, and rationale for approving Virginia’s submittals may be found in the Technical Support Document (TSD) for this action, which is available online at <http://www.regulations.gov>, Docket number EPA–R03–OAR–2010–0160.

III. 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 CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Proposed Action

EPA is proposing to approve Virginia’s submittals that provide the basic program elements specified in the CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, necessary to implement, maintain, and enforce the 1997 8-hour ozone and PM_{2.5} NAAQS and the 2006 PM_{2.5} NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - 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);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this proposed rule, pertaining to Virginia’s section 110(a)(2) infrastructure requirements for the 1997 8-hour ozone and PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country

located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 27, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

RIN 0648–BA81

Endangered and Threatened Wildlife and Plants; Public Hearings for Proposed Rulemaking To Revise Critical Habitat for Hawaiian Monk Seals

AGENCY: Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS).

ACTION: Notice of public hearings.

SUMMARY: We, National Marine Fisheries Service (NMFS), are announcing six public hearings to be held for the proposed rule to revise critical habitat for the Hawaiian monk seal, which was published in the **Federal Register** on June 2, 2011. See **SUPPLEMENTARY INFORMATION** for meeting dates and locations. As noted in the proposed rule, we will consider written comments received on or before August 31, 2011.

ADDRESSES:

See **SUPPLEMENTARY INFORMATION** for meeting dates and locations. You may submit written comments on the proposed rule identified by 0648–BA81 by any one of the following methods:

- *Electronic Submissions:* Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail or hand-delivery:* Submit written comments to Regulatory Branch Chief, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu,