will be liable for any payment due for such uses; provided, however, that all rights and remedies of the copyright owner with respect to unauthorized uses shall be preserved.

(d) Interpretation. The free trial royalty rate is exclusively for audio-only licensed subpart C of this part activity involving musical works subject to licensing under 17 U.S.C. 115. The free trial royalty rate does not apply to any other use under 17 U.S.C. 115; nor does it apply to public performances, audiovisual works, lyrics or other uses outside the scope of 17 U.S.C. 115.

Without limitation, uses subject to licensing under 17 U.S.C. 115 that do not qualify for the free trial royalty rate (including without limitation licensed subpart C of this part activity beyond the time limitations applicable to the free trial royalty rate) require payment of applicable royalties. This section is based on an understanding of industry practices and market conditions at the time of its development, among other things. The terms of this section shall be subject to de novo review and consideration (or elimination altogether) in future proceedings before the Copyright Royalty Judges. Nothing in this section shall be interpreted or construed in such a manner as to nullify or diminish any limitation, requirement or obligation of 17 U.S.C. 115 or other protection for musical works afforded by the Copyright Act, 17 U.S.C. 101 et seq.

§ 385.25 Reproduction and distribution rights covered.

A compulsory license under 17 U.S.C. 115 extends to all reproduction and distribution rights that may be necessary for the provision of the licensed subpart C of this part activity, solely for the purpose of providing such licensed subpart C of this part activity (and no other purpose).

§ 385.26 Effect of rates.

In any future proceedings under 17 U.S.C. 115(c)(3)(C) and (D), the royalty rates payable for a compulsory license shall be established de novo.


Stanley C. Wisniewski,
Copyright Royalty Judge.

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BILLING CODE 1410–72–P
the annual emissions from 2008 through 2010 as reported to the CAMD database available at http://camddataandmaps.epa.gov/gdm/.

10. On page 24024, Footnote 123 is amended to read as follows: “EPA’s CCM Sixth Edition, January 2002, EPA/452/B--02–001, Section 1, Chapter 2, p. 2–21.”

11. On page 24025, Footnote 130 is amended to read as follows: “Baseline emissions were determined by averaging the annual emissions from 2008 to 2010 as reported to the CAMD database available at http://camddataandmaps.epa.gov/gdm/.”

12. On page 24026, Footnote 150 is amended to read as follows: “ExxonMobil’s emissions in 2009 of NOX and SO2 were 1,019 tpy, resulting in a Q/D of 6. Conex’s emissions in 2009 of NOX and SO2 were 727 tpy, resulting in a Q/D of 5. Conoco’s emissions in 2009 of NOX and SO2 were 1,087 tpy, resulting in a Q/D of 8. Montana Refining’s emissions in 2009 of NOX and SO2 were 122 tpy, resulting in a Q/D of 2. The consent decrees are available in the docket.”

13. On page 24059, in the first column, the second paragraph is amended to read, “We are eliminating the four refineries from further consideration as a result of consent decrees entered into by the owners. Under these consent decrees, emissions have been reduced sufficiently after the 2002 baseline so that the Q/D for each facility is below 10. Specifically, ExxonMobil’s emissions in 2009 of NOX and SO2 were 1,019 tpy, resulting in a Q/D of 6. Conex’s emissions in 2009 of NOX and SO2 were 727 tpy, resulting in a Q/D of 5. Conoco’s emissions in 2009 of NOX and SO2 were 1,087 tpy, resulting in a Q/D of 8. Montana Refining’s emissions in 2009 of NOX and SO2 were 122 tpy, resulting in a Q/D of 2. The consent decrees are available in the docket.”

14. On page 24063, in the first column, the first sentence of the last paragraph is amended to read, “We are relying on CELP’s estimates that SCR would take approximately 26 months to install and that SNCR would take 16 to 24 weeks to install.”

15. On page 24064, the title for the last column of Table 162 is amended to read, “Remaining emissions (tpy).”

16. On page 24070, in the third column, the fourth sentence of the second paragraph is amended to read, “This control option is functionally equivalent to LSPC in terms of concept and control efficiency.”

17. On page 24071, in the first column, the second full sentence of the first paragraph is amended to read, “We used 85% control for this analysis.”

18. On page 24071, in the first column, the sixth sentence of the second paragraph is amended to read, “We used 70% control for this analysis (about a 10% improvement over existing controls).”

19. On page 24074, in the third column, the first sentence of the fifth paragraph is amended to read, “We have identified the following technologies to be available: extending the Claus reaction into a lower temperature liquid phase (the Sulfreen® process) and tail gas scrubbing (Wellman-Lord, SCOT, and traditional FGD processes).”

20. On page 24074, in the third column, the first sentence of the sixth paragraph is amended to read, “In the Sulfreen® process, the Claus reaction is extended at low temperatures (260 to 300°F) to recover SO2 and H2S in the tail gas.”

21. On page 24075, in the third column, the third paragraph is amended to read, “Both the SCOT and Sulfreen® processes are feasible; however, in the BART Guidelines, EPA states that it may be appropriate to eliminate from further consideration technologies that provide similar control levels at higher cost. See 70 FR 39165 (July 6, 2005). We think it is appropriate to do the same for RP determinations. In this case, Sulfreen® systems reportedly can achieve 98% to 99.5% sulfur recovery efficiency while SCOT can reportedly achieve sulfur recovery as high as 99.8% to 99.9%. The cost is higher for the Sulfreen® system when compared to the SCOT process. Because the SCOT process is more effective and costs less than the Sulfreen® system, the Sulfreen® system was not considered further.”

22. On page 24076, in the second column, the first sentence of the third paragraph is amended to read, “Plum Creek Manufacturing’s Columbia Falls Operation, in Columbia Falls, Montana consists of a sawmill, a planer, and plywood and medium density fiberboard (MDF) processes.”

23. On page 24097, the following information is added to the third column after the second paragraph, “K. Congressional Review Act
The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a “major rule” as defined by 5 U.S.C. 804(2).”

24. On page 24097, in the third column, under Subpart BB—Montana, the first line of number three is amended to read, “3. Add section 52.1395 to read as follows:”

25. On page 24097, section 52.1395 (c)(1) is amended to read, “The owners/operators of EGUs subject to this section shall not emit or cause to be emitted PM, SO2 in excess of the following limitations, in pounds per million British thermal units (lb/MMBtu), averaged over a rolling 30-day period for SO2 and NOX:”

26. On page 24098, section 52.1396 (c)(2) is amended to read, “The owners/operators of cement kilns subject to this section shall not emit or cause to be emitted PM, SO2 or NOx in excess of the following limitations, in pounds per ton of clinker produced, averaged over a rolling 30-day period for SO2 and NOx:”

27. On page 24099, the following is added to section 52.1396 (g), “(5) All particulate matter stack test results.”

28. On page 24099, section 52.1396 (b)(4) is amended to read, “(4) Owner/operator of each unit shall submit results of any particulate matter stack tests conducted for demonstrating compliance win the particulate matter BART limits in section (c) above, within 60 days after completion of the test.”

29. On page 24100, section 52.1396 (h)(6) is amended to read, “(6) Any other records required by 40 CFR part 60, Subpart F, or 40 CFR part 60, Appendix F, Procedure 1.”

30. On page 24100, section 52.1396 (i)(5) is added to read, “(5) Owner/operator of each unit shall submit semi-annual reports of any excursions under the approved CAM plan in accordance with the schedule specified in the source’s title V permit.”

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.


James B. Martin,
Regional Administrator, Region 8.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131


RIN 2040–AF41

Effective Date for the Water Quality Standards for the State of Florida’s Lakes and Flowing Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed delay of effective date.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to extend the July 6, 2012, effective date of the "Water Quality Standards for the State of Florida’s Lakes and Flowing Waters;