

- 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 Clean Air Act; 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 rule 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.

#### 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 action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action 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 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 June 30, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 Virginia's SIP revision request consisting of a 10-year maintenance plan under section 110(a)(1) for the White Top Mountain 1-hour ozone nonattainment area located

in Smyth County, Virginia 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 15, 2008.

**William T. Wisniewski,**

*Acting 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 XX—Virginia

■ 2. In § 52.2420, the table in paragraph (e) is amended by adding an entry for the 8-hour Ozone Maintenance plan for the White Top Mountain, Smyth County, VA 1-hour Ozone Nonattainment Area at the end of the table to read as follows:

#### § 52.2520 Identification of plan.

*	*	*	*	*
(e)	*	*	*	*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* Ozone Maintenance Plan.	* White Top Mountain, Smyth County, VA 1-hour Ozone Nonattainment Area.	* 8/6/07	* 8/29/08.	* 

[FR Doc. E8-9266 Filed 4-28-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2007-1091-200813; FRL-8559-1]

#### Approval and Promulgation of Implementation Plans Kentucky: Tennessee Valley Authority Paradise Facility State Implementation Plan Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a source specific State Implementation Plan (SIP) revision submitted on October 19, 2007, by the Commonwealth of Kentucky through the Kentucky Division for Air Quality (KDAQ). This SIP revision supercedes a previous source-specific revision approved by EPA on August 25, 1989, including an equivalency demonstration supporting the redistribution of sulfur dioxide (SO<sub>2</sub>) emissions from Tennessee Valley Authority's (TVA's) Paradise Steam Plant located in Muhlenberg County, Kentucky. The revision being approved now includes SO<sub>2</sub> limits that are more stringent than the current SIP-approved statewide SO<sub>2</sub> limits for electric generating units (EGUs). Consistent with Kentucky

Administrative Regulations (KAR) approved into the SIP, affected facilities located in Muhlenberg County are subject to an SO<sub>2</sub> emission limit of 3.1 pounds per million British Thermal Units (lbs/mmBTU). The 3.1 lbs/mmBTU limit was approved by EPA on June 24, 1983, as part of Kentucky's control strategy for attaining and maintaining the primary and secondary SO<sub>2</sub> national ambient air quality standard (NAAQS) in Muhlenberg County. This current SIP action will approve a limit of 1.2 lbs/mmBTU for all three units with limited bypass emissions of 3.1 lbs/mmBTU for scrubber maintenance on Unit 3. This revision was proposed for approval on February 5, 2008, and no adverse comments were received.

**DATES:** *Effective Date:* This rule will be effective May 29, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2007-1091. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Heidi LeSane, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9074. Ms. LeSane can also be reached via electronic mail at [lesane.heidi@epa.gov](mailto:lesane.heidi@epa.gov).

**SUPPLEMENTARY INFORMATION:**

### Background

On October 19, 2007, KDAQ submitted to EPA a source-specific SIP revision requesting that the 1989 source-specific redistribution of SO<sub>2</sub> emission limits for TVA Paradise be revised to account for new control technology at the facility. KDAQ proposed that the TVA Paradise facility be subject to specific limits discussed below which are more stringent than Kentucky's SIP-approved KAR, requiring a 3.1 lbs/mmBTU limit. The rationale for the 1989 equivalency determination and redistribution was the lack of control measures (a scrubber) on Unit 3. TVA has now installed a wet scrubber on Unit 3, and as a result, the 1989 redistribution is no longer necessary for the facility to comply with the SIP-approved 401 KAR 61:015. At this time, Units 1 and 2 are equipped with Venturi-type limestone slurry flue gas

desulfurization (FGD) scrubbers, and Unit 3 is equipped with an electrostatic precipitator and a wet limestone FGD scrubber. The facility is now able to meet (and exceed) the requirements of 401 KAR 61:015 without a unit-specific redistribution. The new SO<sub>2</sub> limits are: 1.2 lbs/mmBTU for all three units with a 3.1 lbs/mmBTU limit allowed at Unit 3 for a limited time for scrubber maintenance. This revision is consistent with section 110 of the Clean Air Act (CAA) because it will continue to provide for attainment and maintenance of the SO<sub>2</sub> NAAQS. EPA proposed this revision for approval on February 5, 2008 (73 FR 6657), and no adverse comments were received.

### Final Action

EPA is taking final action to approve a source-specific SIP revision submitted by KDAQ in October 2007 regarding the SO<sub>2</sub> emission limits for the three units at the TVA Paradise Facility. This action will supersede the 1989 source-specific SIP revision and subject TVA Paradise to emission limits of 1.2 lbs/mmBTU at Units 1, 2, and 3, except that Unit 3 may meet the limit of 3.1 lbs/mmBTU that is established in 401 KAR 61:015 during the limited times when the Unit 3 scrubber is bypassed for maintenance (not to exceed 720 operating hours in a 12-month period).

### Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 approves Kentucky law as meeting Federal requirements and does not impose additional requirements beyond those imposed by Kentucky law. For that reason, this 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 rule 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 Commonwealth, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and 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). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

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 June 30, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference,

Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 17, 2008.

**Russell L. Wright, Jr.,**

*Acting Regional Administrator, Region 4.*

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 S—Kentucky

■ 2. Section 52.920 (d) is amended:

■ a. By revising the entry for “TVA Paradise Permit,” and

■ b. by adding a new entry at the end of the table for “TVA Paradise Permit” to read as follows:

#### § 52.920 Identification of plan.

\* \* \* \* \*

(d) \* \* \*

#### EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
TVA Paradise Permit.	KDEPDAQ Permit 0-87-012 .....	6/29/87	08/25/89, 54 FR 35326 .....	WITHDRAWN
TVA Paradise Permit.	KDEPDAQ Permit 0-87-012 .....	10/19/07	4/29/08 [Insert citation of publication].	Emission Rates Units 1 and 2 are 1.2 lb/MMBTU and Unit 3 is 1.2 lb/MMBTU or *3.1 lb/MMBTU.

\* Bypass of the scrubber shall be limited to 720 operating hours in any 12 consecutive months.

\* \* \* \* \*

[FR Doc. E8-9252 Filed 4-28-08; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R05-OAR-2004-WI-0002; FRL-8557-5]

#### Redesignation of the Forest County Potawatomi Community Reservation to a PSD Class I Area; Dispute Resolution with the State of Michigan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of dispute resolution.

**SUMMARY:** The purpose of this notice is to announce the EPA resolution of an intergovernmental dispute over a request by the Forest County Potawatomi Community (FCP Community) to redesignate portions of the FCP Community reservation as a non-Federal Class I area under the Clean Air Act (CAA or Act) program for Prevention of Significant Deterioration (PSD) of air quality. On June 8, 1995, the Governors of Wisconsin and Michigan raised concerns about EPA's proposal to approve the request of the FCP Community to redesignate portions of its reservation as a non-Federal Class I area and asked EPA to enter

negotiations with the parties to resolve the dispute as provided for in the CAA. The State of Michigan and the FCP Community were unable to reach an agreement concerning the redesignation. After fully considering the concerns raised by the State of Michigan, EPA has determined that it is not proper in these particular circumstances to disapprove the FCP Community's redesignation request. The Class I redesignation is described in a final rulemaking notice also published in this **Federal Register**. The Class I designation will result in lowering the allowable increases in ambient concentrations of particulate matter, sulfur dioxide, and nitrogen oxide within the reservation.

**DATES:** This action is effective on May 29, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Constantine Blathras, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507; telephone number: 312-886-0671; fax number: 312-886-5824; e-mail address: [blathras.constantine@epa.gov](mailto:blathras.constantine@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

#### I. General Information

##### A. Does This Action Apply to Me?

This action will apply to applicants to the PSD construction permit program on Class I trust lands of the Forest County Potawatomi Community.

##### B. How Can I Get Copies Of This Document and Related Information?

1. *Docket.* EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2004-WI-0002. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the U.S. Environmental Protection Agency, Air Docket, in the EPA Headquarters Library, Room Number 3334 in the EPA West Building, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation will be 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742. The docket is also available during normal business hours for public inspection and copying at the Air Programs Branch, Region 5, EPA (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

2. *Electronic Access.* You may access this **Federal Register** document