

designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the temporary moving safety zone must comply with all directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF-16 or through the 24-hour Command Center at telephone (415) 399-3547.

(d) *Effective period.* This section is effective from 12 a.m. on October 7, 2009 through 11:59 p.m. on December 1, 2009.

Dated: October 6, 2009.

**P.M. Gugg,**

*Captain, U.S. Coast Guard, Captain of the Port San Francisco.*

[FR Doc. E9-25393 Filed 10-21-09; 8:45 am]

**BILLING CODE 4910-15-P**

**POSTAL SERVICE**

**39 CFR Part 20**

**Nonmailable Items Prohibited in All Outbound International Mail—Update**

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is revising and adding new standards which codify that replica and inert explosive devices, and counterfeit and pirated items are nonmailable in outbound international mail.

**DATES:** *Effective Date:* January 4, 2010.

**FOR FURTHER INFORMATION CONTACT:** Rick Klutts, 813-877-0372.

**SUPPLEMENTARY INFORMATION:** Consistent with Proposals 20.15.2 and 20.15.6—adopted by the 24th Congress of the Universal Postal Union (UPU) in Geneva Switzerland on July 23–August 12, 2008,—that amend Article 15 of the UPU Convention, we are revising *Mailing Standards of the United States Postal Service, International Mail Manual (IMM®)* to make replica and

inert explosive devices and counterfeit and pirated items nonmailable.

**Replica and Inert Explosive Devices**

Consistent with Proposal 20.15.2, this prohibition is intended to apply to devices that were originally designed for military or combat use (including training) and is also extended to replicas of such items. Specific items include replica and inert explosive devices and military ordnance, such as grenades, ammunition, shells and the like.

This prohibition does not extend to items such as children's toys or articles that do not represent such items in a realistic manner.

**Counterfeit or Pirated Articles**

Consistent with UPU Proposal 20.15.6, this prohibition is intended to reduce the circulation of counterfeit and pirated articles between UPU members. The prohibition also illustrates that the UPU's members actively support the World Customs Organization's current campaign to thwart production and circulation of counterfeited and pirated products, such as dangerous toys and electrical items, dangerous counterfeit medicines and counterfeit branded goods, which do economic harm to domestic and international companies.

**List of Subjects in 39 CFR Part 20**

Foreign relations, International postal services.

■ Accordingly, 39 CFR part 20 is amended as follows:

**PART 20—[AMENDED]**

■ 1. The authority citation for 39 CFR part 20 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301-307; 39 U.S.C. 101, 401, 403, 404, 407, 408, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service, International Mail Manual (IMM)* as follows:

**Mailing Standards of the United States Postal Service, International Mail Manual (IMM)**

**1 International Mail Services**

\* \* \* \* \*

**130 Mailability International Mail Services**

\* \* \* \* \*

*[Revise 136 in its entirety as follows:]*

\* \* \* \* \*

**136 Nonmailable Goods**

**136.1 Dangerous Goods**

The following dangerous goods (hazardous materials, as defined in DMM 601) are prohibited in outbound international mail:

- a. Explosives or explosive devices.
- b. Flammable materials.
  - 1. Pyrophoric, flammable, or combustible liquids with a closed cup flash point below 200 °F.
  - 2. Flammable solids, including matches.
- c. Oxidizers.
- d. Corrosives, liquid or solid.
- e. Compressed gases.
  - 1. Flammable.
  - 2. Nonflammable with an absolute pressure exceeding 40 psi at 70 °F or 104 psi at 130 °F.
- f. Poisons, irritants, controlled substances, and drug paraphernalia.
- g. Magnetized material with a magnetic field strength of .002 gauss or more at a distance of 7 feet.
- h. Dry ice (carbon dioxide solid).

**136.2 Replica and Inert Explosive Devices**

The following types of replica or inert explosive devices are prohibited in outbound international mail:

- 1. Military ordnance, ammunition, and shells.
- 2. Grenades.
- 3. Similar devices that were originally designed for military or combat use (including training).

This prohibition does not extend to items such as children's toys or articles that do not represent such items in a realistic manner.

**136.3 Counterfeit and Pirated Items**

Any type of counterfeit or pirated article is prohibited in outbound international mail.

\* \* \* \* \*

**Neva R. Watson,**

*Attorney, Legislative.*

[FR Doc. E9-25363 Filed 10-21-09; 8:45 am]

**BILLING CODE 7710-12-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2009-0599; FRL-8971-4]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision to Clean Air Interstate Rule Sulfur Dioxide Trading Program**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Commonwealth of Virginia State Implementation Plan (SIP). The revision pertains to the timing for the first phase of the sulfur dioxide (SO<sub>2</sub>) trading budget under the Commonwealth's approved regulations that implement the requirements of the Clean Air Interstate Rule (CAIR). EPA is approving this revision to change the start date of Virginia's CAIR SO<sub>2</sub> trading budget from the control period in 2009 to the control period in 2010 in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on December 21, 2009 without further notice, unless EPA receives adverse written comment by November 23, 2009. 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:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2009-0599 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](mailto:Fernandez.cristina@epa.gov).

C. *Mail:* EPA-R03-OAR-2009-0599, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, 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-2009-0599. 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) 814-2308, or by e-mail at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On January 14, 2009, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of a change in timing for the first phase of the Commonwealth's approved CAIR SO<sub>2</sub> trading budget. The start for the first phase of the SO<sub>2</sub> trading budget is changed from the control period in 2009 to the control period in 2010.

##### **II. Summary of SIP Revision**

Virginia regulation 9 VAC 5-140-3400 is amended to change the timing for the CAIR SO<sub>2</sub> budget from the control period in 2009 to the control period in 2010. In addition, the section title of 9 VAC 5-140-3400 is changed to specifically reflect the CAIR SO<sub>2</sub> annual trading budgets.

The EPA-administered CAIR SO<sub>2</sub> trading programs under States' CAIR SIPs and under the CAIR FIP start on January 1, 2010, and the associated CAIR SO<sub>2</sub> trading budgets apply starting with the 2010 control period. Virginia's existing provision, requiring an SO<sub>2</sub> budget starting in the 2009 control period, is inconsistent with the CAIR trading program. In the SIP revision, Virginia explains that this change corrects a technical error in its approved CAIR SIP.

##### **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. Final Action

EPA is approving the SIP revision submitted by the Commonwealth of Virginia on January 14, 2009. The SIP revision incorporates timing changes to the Commonwealth’s CAIR SO<sub>2</sub> trading program that make it consistent with the regional CAIR SO<sub>2</sub> trading program, under which SO<sub>2</sub> trading budgets apply starting in 2010.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s **Federal**

**Register**, EPA is 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 December 21, 2009 without further notice unless EPA receives adverse comment by November 23, 2009. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### V. Statutory and Executive Order Reviews

##### A. General Requirements

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State 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 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 December 21, 2009. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the

comment in the proposed rulemaking. This action to approve a Virginia SIP revision that changes the applicable start date for its SO<sub>2</sub> trading budget 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, Sulfur oxides.

Dated: October 13, 2009.  
**James W. Newsom,**  
*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 entry for Chapter 140, Section 5–140–3400 to read as follows:

**§ 52.2420 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
<b>9 VAC 5, Chapter 140 Regulations for Emissions Trading Programs</b>				
*	*	*	*	*
<b>Part IV SO<sub>2</sub> Annual Trading Program</b>				
5–140–3400 .....	State trading budgets .....	12/12/07	10/22/09 [Insert page number where the document begins].	1. In section title, replace "State" with "CAIR SO <sub>2</sub> Annual." 2. In paragraph 1, replace 2009 with 2010.
*	*	*	*	*

[FR Doc. E9–25355 Filed 10–21–09; 8:45 am]  
**BILLING CODE 6560–50–P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 09–2181; MB Docket No. 09–159; RM–11557]

**Television Broadcasting Services; St. Petersburg, FL**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission grants a petition for rulemaking filed by Bay Television, Inc., the licensee of station WTTA(TV), channel 38, St. Petersburg, Florida, requesting the substitution of channel 32 for its assigned channel 38 at St. Petersburg.

**DATES:** This rule is effective October 22, 2009.

**FOR FURTHER INFORMATION CONTACT:** Adrienne Y. Denysyk, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 09–159, adopted October 1, 2009, and released October 7, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements

subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICES**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.