

long. 111°26'11" W., to lat. 34°58'47" N., long. 111°37'17" W., to lat. 34°43'58" N., long. 111°50'21" W., to lat. 34°45'01" N., long. 112°01'17" W., to lat. 34°54'24" N., long. 112°05'16" W., to lat. 35°08'10" N., long. 111°51'59" W., thence to the point of beginning. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 35°05'04" N., long. 112°27'43" W., to lat. 35°11'22" N., long. 110°52'43" W., thence clockwise along the 39 mile arc to the point of beginning, excluding the Sedona, AZ, Class E airspace area.

Issued in Seattle, Washington, on September 30, 2010.

Lori Andriesen,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010-25200 Filed 10-5-10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R09-OAR-2010-0680; FRL-9209-7]

State of California; Request for Approval of Section 112(l) Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards From Dry Cleaning Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve California's Airborne Toxic Control Measure for Emissions of Perchloroethylene from Dry Cleaning and Water-Repelling Operations, Requirements for Perc Manufacturers, and Requirements for Perc Distributors to be implemented and enforced in place of the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities. EPA is proposing this action under section 112(l) of the Clean Air Act (CAA). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments on California's request for approval must be received on or before November 5, 2010.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2010-0680, concurrently to EPA and the California Air Resources Board. Comments submitted to the California Air Resources Board should be mailed to the address below:

Dan Donohoue, Chief, Emissions Assessment Branch, Stationary Source Division, California Air Resources Board, 1001 "I" Street, P.O. Box 2815, Sacramento, CA 95812.

Comments sent to EPA should be submitted by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or Deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947-4124, wang.mae@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Background

Under CAA section 112(l), EPA is authorized to delegate to State agencies the authority to implement and enforce the National Emission Standards for Hazardous Air Pollutants (NESHAPs). The Federal regulations governing EPA's approval of State rules or programs under section 112(l) are located at 40 CFR part 63, subpart E. Under these regulations, a State has the option to request EPA's approval to substitute a State rule for the comparable NESHAP. Under this "rule substitution" option, EPA is required to make a detailed and thorough evaluation of the State's submittal to ensure that it meets the stringency and other requirements of 40 CFR 63.93. Upon approval the State is given the authority to implement and enforce its rule in lieu of the NESHAP.

On September 22, 1993, EPA promulgated the NESHAP for perchloroethylene (perc) dry cleaning facilities, which has been codified in 40 CFR part 63, subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (dry cleaning NESHAP) (see 58 FR 49354). On May 21, 1996, EPA approved a request submitted by the California Air Resources Board (CARB) for approval to implement and enforce California's Airborne Toxic Control Measure for Emissions of Perchloroethylene from Dry Cleaning Operations (original dry cleaning ATCM) in lieu of the dry cleaning NESHAP (see 61 FR 25397).

On July 27, 2006, EPA amended the dry cleaning NESHAP (see 71 FR 42743). In 2007, CARB revised California's original dry cleaning ATCM.

II. California's Submittal

A. Amended Dry Cleaning ATCM

California's Airborne Toxic Control Measure for Emissions of Perchloroethylene from Dry Cleaning and Water Repelling Operations, Requirements for Perc Manufacturers, and Requirements for Perc Distributors, sections 93109, 93109.1, and 93109.2, Title 17 of the California Code of Regulations (amended dry cleaning ATCM), became State law on December 27, 2007. On July 15, 2009, CARB submitted a request to implement and enforce the amended dry cleaning ATCM in lieu of the dry cleaning NESHAP and the previously approved original dry cleaning ATCM. This request was submitted pursuant to the

provisions of 40 CFR 63.93 and found to be complete on August 13, 2009.

The amended dry cleaning ATCM is implementing a ban on the use of perc in dry cleaning operations in California. Since January 1, 2008, there has been a prohibition on the installation or use of any perc dry cleaning machines at new facilities. Existing facilities must meet equipment and operational requirements until the existing

machines are phased out in accordance with the time frames established in the amended dry cleaning ATCM.

B. Major Dry Cleaning Sources

Under the dry cleaning NESHAP, dry cleaning facilities are divided between major sources and area sources. CARB's request for approval includes only those provisions of the dry cleaning NESHAP that apply to area sources. Thus, dry cleaning facilities that are major

sources, as defined by the dry cleaning NESHAP, remain subject to the dry cleaning NESHAP and the CAA Title V operating permit program.

C. California District Rules

After the May 21, 1996, approval of the original dry cleaning ATCM, the following California District rules were approved in place of the dry cleaning NESHAP:

District	Rule	Adoption date	Approval date
San Luis Obispo County APCD ...	432: Perchloroethylene Dry Cleaning Operations	11/13/1996	12/10/1997 (62 FR 65022)
South Coast AQMD	1421: Control of Perchloroethylene Emissions from Dry Cleaning Systems.	6/13/1997	5/13/1998 (63 FR 26463)
Yolo-Solano AQMD	9.7: Perchloroethylene Dry Cleaning Operations	11/13/1998	1/28/1999 (64 FR 4298)

If the current submittal of the amended dry cleaning ATCM is approved, then the amended dry cleaning ATCM will replace the above rules from San Luis Obispo County Air Pollution Control District and Yolo-Solano County Air Quality Management District as the federally-enforceable regulation in those Districts for perc dry cleaning area sources. In the future, a District may request approval for a local rule under the provisions of 40 CFR § 63.93. Until a request for delegation of a local regulation is submitted and approved by EPA, the amended dry cleaning ATCM would serve as the federally applicable regulation, with the one exception discussed below.

In the South Coast Air Quality Management District (SCAQMD), the previously approved version of Rule 1421 would remain in place as the federally-enforceable regulation for perc dry cleaning area sources. The SCAQMD has asked to be excluded from the CARB request for delegation and intends to submit an amended version of Rule 1421 in a separate delegation request in the future. Therefore, if the amended dry cleaning ATCM is approved, then it will be the federally applicable regulation for perc dry cleaning area sources in all Districts of California except the SCAQMD.

D. California's Authorities and Resources To Implement and Enforce CAA Section 112 Standards

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and 40 CFR part 63, subpart E. To streamline the approval process for future applications, a State may submit for approval a demonstration that it has adequate authorities and resources to implement

and enforce any CAA section 112 standards. Approval of this demonstration will obviate the need for the State to resubmit in each subsequent request for approval its prior demonstration that it has adequate authorities and resources to implement and enforce the section 112 standard.

As part of its original dry cleaning ATCM application, approved on May 21, 1996, CARB also requested and received approval of California's authorities and resources to implement and enforce all CAA section 112 programs and rules, with the exception of the accidental release prevention program promulgated pursuant to CAA section 112(r) (see 61 FR 25397). Although approval of California's authorities and resources did not result in delegation of the section 112 standards, it obviated the need for California to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of section 112 standards, regardless of whether the State requests approval of rules that are identical to or differ from the Federal standards as promulgated.

In CARB's request for approval of the amended dry cleaning ATCM, submitted on July 15, 2009, CARB satisfied the need to submit certain demonstrations of legal authorities and resources by referencing the demonstrations contained in its original application, approved on May 21, 1996 (see 61 FR 25397), and stating that those demonstrations are still applicable. By reference, those original demonstrations are considered a part of this current submittal. The approval of the original application contained a more detailed discussion of EPA's evaluation of these demonstrations of legal authorities and

resources, including a discussion of penalty authorities and variances. The May 21, 1996, action should be consulted for further information.

III. EPA's Evaluation

When a State requests EPA's approval to substitute a State rule for the applicable CAA section 112 Federal rule, EPA is required to "make a detailed and thorough evaluation of the State's submittal to ensure that it meets the stringency and other requirements" of 40 CFR 63.93 (see 58 FR 62274). After reviewing CARB's request for approval of its amended dry cleaning ATCM (see docket for more information), EPA has determined that CARB's request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.93.

While EPA notes that there are differences between the dry cleaning NESHAP and the amended dry cleaning ATCM because the regulations differ in structure and approach, the amended dry cleaning ATCM is designed to phase out the use of perc at dry cleaning facilities. For example, in addition to California's previous prohibition of transfer, vented, and self-service perc dry cleaning machines, the sale or new lease of perc dry cleaning machines was prohibited as of January 1, 2008. The use of perc dry cleaning machines or perc water-repelling operations at new facilities was also prohibited, along with the use of drying cabinets and dip tanks. As of July 1, 2010, existing perc converted machines and perc dry cleaning machines at co-residential locations have been prohibited. Other machines are being phased out according to the age of the machine, and all remaining perc dry cleaning machines must be removed from service

by January 1, 2023. In the final analysis, EPA believes that approval of the amended dry cleaning ATCM will result in emission reductions from each affected source that are no less stringent than would result from the dry cleaning NESHAP. Accordingly, EPA is proposing to grant California the authority to implement and enforce its amended dry cleaning ATCM in place of the dry cleaning NESHAP for area sources in the State of California, with the exception of the SCAQMD.

IV. Public Comment and Proposed Action

Because EPA believes California's request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91 and 63.93, we are proposing approval of the amended dry cleaning ATCM as a substitute for the dry cleaning NESHAP. We will accept comments on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will establish the amended dry cleaning ATCM as the federally-enforceable regulation in California, with the exception of the SCAQMD, for perc dry cleaning area sources. Although California would have primary implementation and enforcement responsibility, EPA would retain the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. If this proposal is finalized, the amended dry cleaning ATCM would be the federally-enforceable standard in California and would be enforceable by the Administrator and citizens under the CAA. However, any provision of the amended dry cleaning ATCM that allows for the approval of alternative means of emission limitations must also receive approval from EPA before such alternatives can be used (e.g., Section 93109(d)(27) and (38), and (i)(3)(A)(2)). Additionally, this delegation does not extend to the provisions regarding California's enforcement authorities or its collection of fees as described in Sections 93109.1(c) and 93109.2(c) and (d), Title 17 of the California Code of Regulations. Approval of the amended dry cleaning ATCM does not in any way limit the enforcement authorities, including the penalty authorities, of the Clean Air Act.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a State delegation submission that complies with the provisions of the CAA and applicable

Federal regulations. 42 U.S.C. 7412(l); 40 CFR 63.90. Thus, in reviewing delegation 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 submitted rule 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 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous

substances, Intergovernmental relations, Incorporation by reference, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Title III of the Clean Air Act as amended, 42 U.S.C. 2399.

Dated: August 30, 2010.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2010-25127 Filed 10-5-10; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R4-ES-2008-0107]
[92210 1111 0000-B2]

RIN 1018-AV88

Endangered and Threatened Wildlife and Plants; Endangered Status for the Altamaha Spiny mussel and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to list the Altamaha spiny mussel (*Elliptio spinosa*), a freshwater mussel endemic to the Altamaha River drainage of southeastern Georgia, as an endangered species under the Endangered Species Act of 1973, as amended (Act), and to designate approximately 240 kilometers (149 miles) of mainstem river channel as critical habitat in Appling, Ben Hill, Coffee, Jeff Davis, Long, Montgomery, Tattnall, Telfair, Toombs, Wayne, and Wheeler Counties, Georgia. This proposed rule, if made final, would implement the Federal protections provided by the Act.

DATES: We will consider comments received or postmarked on or before December 6, 2010. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by November 22, 2010.

ADDRESSES: You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket no. **FWS-R4-ES-2008-0107**.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: **FWS-R4-ES-2008-0107**; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.