

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone shall obtain authorization from the Captain of the Port Maryland-National Capital Region or designated representative. To request permission to transit the area, the Captain of the Port Maryland-National Capital Region and or designated representatives can be contacted at telephone number 410-576-2693 or on marine band radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted to enter the safety zone, all persons and vessels shall comply with the instructions of the Captain of the Port Maryland-National Capital Region or designated representative and proceed as directed while within the zone.

(4) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. to 10:30 p.m. on July 3, 2018, and if necessary due to inclement weather, from 8:30 p.m. to 10:30 p.m. on July 6, 2018.

Dated: March 29, 2018.

**Lonnie P. Harrison, Jr.,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

[FR Doc. 2018-06851 Filed 4-3-18; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2017-0399; FRL-9976-42-Region 3]

### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Nonattainment New Source Review Requirements for the 2008 8-Hour Ozone Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Commonwealth of Virginia's state implementation plan (SIP). The revision is in response to EPA's February 3, 2017 Findings of Failure to Submit for various requirements relating to the 2008 8-hour ozone national ambient air quality standards (NAAQS). This SIP revision is specific to nonattainment new source review (NNSR) requirements. EPA is proposing to approve this revision in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before May 4, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2017-0399 at <http://www.regulations.gov>, or via email to [duke.geralyn@epa.gov](mailto:duke.geralyn@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** David Talley, (215) 814-2117, or by email at [talley.david@epa.gov](mailto:talley.david@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On May 11, 2017, the Virginia Department of Environmental Quality (DEQ) submitted on behalf of the Commonwealth of Virginia a formal revision, requesting EPA's approval for the SIP of its NNSR Certification for the 2008 Ozone NAAQS. The SIP revision

is in response to EPA's final 2008 8-hour ozone NAAQS Findings of Failure to Submit for NNSR requirements. *See* 82 FR 9158 (February 3, 2017). Specifically, Virginia is certifying that its existing NNSR program, covering the Washington, DC nonattainment area (which includes Alexandria City, Arlington County, Fairfax County, Fairfax City, Falls Church City, Loudoun County, Manassas City, Manassas Park City, and Prince William County in Virginia) (hereafter, Washington, DC Nonattainment Area) for the 2008 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165, as amended by the final rule titled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (SIP Requirements Rule), for ozone and its precursors.<sup>1 2</sup> *See* 80 FR 12264 (March 6, 2015).

#### A. 2008 8-Hour Ozone NAAQS

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR 50.15, the 2008 8-hour ozone NAAQS is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Washington, DC Nonattainment Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS on May 21,

<sup>1</sup> The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

<sup>2</sup> On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir. Court) issued an opinion on the EPA's SIP Requirements Rule. *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15-1115, 2018 U.S. App. LEXIS 3636 (D.C. Cir. Feb. 16, 2018). The D.C. Cir. Court found certain provisions from the 2008 Ozone SIP Requirements Rule unreasonable including EPA's provision for a "redesignation substitute." The D.C. Cir. Court also vacated other provisions relating to anti-backsliding in the 2008 Ozone SIP Requirements Rule as the Court found them unreasonable. *Id.* The D.C. Circuit found other parts of the SIP Requirements Rule unrelated to anti-backsliding and this action reasonable and denied the petition for appeal on those. *Id.*

2012 (effective July 20, 2012) using 2008–2010 ambient air quality data. *See* 77 FR 30088. On March 6, 2015, EPA issued the final SIP Requirements Rule, which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS. *See* 80 FR 12264. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. *See* 40 CFR 51.1103. The Washington, DC Nonattainment Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015; however, this area did meet the CAA section 181(a)(5) criteria, as interpreted in 40 CFR 51.1107, for a one-year attainment date extension. *See* 81 FR 26697 (May 4, 2016). Therefore, on April 11, 2016, the EPA Administrator signed a final rule extending the Washington, DC Nonattainment Area 2008 8-hour ozone NAAQS attainment date from July 20, 2015 to July 20, 2016.<sup>3</sup>

Based on initial nonattainment designations for the 2008 8-hour ozone standard, as well as the March 6, 2015 final SIP Requirements Rule, Virginia was required to develop a SIP revision addressing certain CAA requirements for the Washington, DC Nonattainment Area, and submit to EPA a NNSR Certification SIP or SIP revision no later than 36 months after the effective date of area designations for the 2008 8-hour ozone NAAQS (*i.e.*, July 20, 2015).<sup>4</sup> *See* 80 FR 12264 (March 6, 2015). EPA is proposing to approve Virginia's May 11, 2017 NNSR Certification SIP revision. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS is provided in Section II below.

#### *B. 2017 Findings of Failure To Submit SIP for the 2008 8-Hour Ozone NAAQS*

Areas designated nonattainment for the ozone NAAQS are subject to the

general nonattainment area planning requirements of CAA section 172 and also to the ozone-specific planning requirements of CAA section 182.<sup>5</sup> States in the ozone transport region (OTR), such as Virginia, are additionally subject to the requirements outlined in CAA section 184.

Ozone nonattainment areas in the lower classification levels have fewer and/or less stringent mandatory air quality planning and control requirements than those in higher classifications. For a marginal area, such as the Washington, DC Nonattainment Area, a state is required to submit a baseline emissions inventory, adopt a SIP requiring emissions statements from stationary sources, and implement a NNSR program for the relevant ozone standard. *See* CAA section 182(a). For each higher ozone nonattainment classification, a state needs to comply with all lower area classification requirements, plus additional emissions controls and more expansive NNSR offset requirements.

The CAA sets out specific requirements for states in the OTR.<sup>6</sup> Upon promulgation of the 2008 8-hour ozone NAAQS, states in the OTR were required to submit a SIP revision for RACT. *See* 40 CFR 51.1116. This requirement is the only recurring obligation for an OTR state upon revision of a NAAQS, unless that state also contains some portion of a nonattainment area for the revised NAAQS. In that case, the nonattainment requirements described previously also apply to those portions of that state.

In the March 6, 2015 SIP Requirements Rule, EPA detailed the requirements applicable to ozone nonattainment areas, as well as requirements that apply in the OTR, and provided specific deadlines for SIP submittals. On February 3, 2017, EPA found that 15 states and the District of Columbia failed to submit SIP revisions in a timely manner to satisfy certain requirements for the 2008 8-hour ozone NAAQS that apply to nonattainment areas and/or states in the OTR. *See* 82 FR 9158. As explained in that

rulemaking action, consistent with the CAA and EPA regulations, these findings of failure to submit established certain deadlines for the imposition of sanctions if a state does not submit a timely SIP revision addressing the requirements for which the finding is being made, and for the EPA to promulgate a federal implementation plan (FIP) to address any outstanding SIP requirements.

EPA found, *inter alia*, that the Commonwealth of Virginia failed to submit a SIP revision in a timely matter to satisfy NNSR requirements for its marginal nonattainment area, specifically the Washington, DC Nonattainment Area. Virginia submitted its May 11, 2017 SIP revision to address the specific NNSR requirements for the 2008 8-hour ozone NAAQS, located in 40 CFR 51.160–165, as well as its obligations under EPA's February 3, 2017 Findings of Failure to Submit. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS and the Findings of Failure to Submit is provided in Section II below.

## **II. Summary of SIP Revision and EPA Analysis**

This rulemaking action is specific to Virginia's NNSR requirements. NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources located in a nonattainment area.<sup>7</sup> The specific NNSR requirements for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.160–165. As set forth in the SIP Requirements Rule, for each nonattainment area, a NNSR plan or plan revision was due no later than 36 months after the effective date of area designations for the 2008 8-hour ozone standard (*i.e.*, July 20, 2015).<sup>8</sup>

The minimum SIP requirements for NNSR permitting programs for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.165. *See* 40 CFR 51.1114. These NNSR program requirements include those promulgated in the "Phase 2 Rule" implementing the 1997 8-hour ozone NAAQS (75 FR 71018 (November 29, 2005)) and the SIP Requirements Rule implementing the 2008 8-hour ozone NAAQS. Under the Phase 2 Rule, the SIP for each ozone nonattainment

<sup>3</sup> EPA finalized approval of a Determination of Attainment (DOA) for the 2008 8-hour ozone NAAQS for the Washington, DC Nonattainment Area on November 14, 2017. This final action was based on complete, certified, and quality assured ambient air quality monitoring data for the 2013–2015 monitoring period. *See* 82 FR 52651 (November 14, 2017). It should be noted that a DOA does not alleviate the need for Virginia to certify that their existing SIP approved NNSR program is as stringent as the requirements at 40 CFR 51.165, as NNSR applies in nonattainment areas until an area has been redesignated to attainment.

<sup>4</sup> Virginia's obligation to submit the NNSR Certification SIP was not affected by the D.C. Circuit Court's February 16, 2018 decision on portions of the SIP Requirements Rule in *South Coast Air Quality Mgmt. Dist. v. EPA*.

<sup>5</sup> Ozone nonattainment areas are classified based on the severity of their ozone levels (as determined based on the area's "design value," which represents air quality in the area for the most recent 3 years). The possible classifications for ozone nonattainment areas are Marginal, Moderate, Serious, Severe, and Extreme. *See* CAA section 181(a)(1).

<sup>6</sup> CAA section 184 details specific requirements for a group of states (and the District of Columbia) that make up the OTR. States in the OTR are required to submit SIP revisions addressing reasonably available control technology (RACT) requirements for the pollutants that form ozone, even if the areas in the state meet the ozone standards.

<sup>7</sup> *See* CAA sections 172(c)(5), 173 and 182.

<sup>8</sup> With respect to states with nonattainment areas subject to a finding of failure to submit NNSR SIP revisions, such revisions would no longer be required if the area were redesignated to attainment. The CAA's prevention of significant deterioration (PSD) program requirements apply in lieu of NNSR after an area is redesignated to attainment. For areas outside the OTR, NNSR requirements do not apply in areas designated as attainment.

area must contain NNSR provisions that: Set major source thresholds for oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOC) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2); classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); consider any significant net emissions increase of NO<sub>x</sub> as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); set significant emissions rates for VOC and NO<sub>x</sub> as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1)–(2); provide that the requirements applicable to VOC also apply to NO<sub>x</sub> pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOC and NO<sub>x</sub> pursuant to 40 CFR 51.165(a)(9)(i)–(iii) (renumbered as (a)(9)(ii)–(iv) under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS). Under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS, the SIP for each ozone nonattainment area designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015, must also contain NNSR provisions that include the anti-backsliding requirements at 40 CFR 51.1105. *See* 40 CFR 51.165(a)(12).

Virginia's SIP approved NNSR program is implemented through Article 9, Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas or the Ozone Transport Region of the Virginia Administrative Code (VAC), 9VAC5–80—*Permits for Stationary Sources*. In its May 11, 2017 SIP revision, Virginia certifies that the version of 9VAC5–80 in the SIP is at least as stringent as the federal NNSR requirements for the Washington, DC Nonattainment Area. EPA last approved revisions to Virginia's major NNSR SIP on August 28, 2017. In that action, EPA approved revisions to Virginia's SIP which made VADEQ's NNSR program consistent with federal requirements. Additionally, those revisions corrected a deficiency which had been grounds for limited approval of VADEQ's program. EPA found, therefore, that Virginia's program met all CAA requirements and was fully approvable. *See* 82 FR 40703.

EPA notes that neither 9VAC5–80 nor Virginia's approved SIP have the

regulatory provision for any emissions change of VOC in extreme nonattainment areas, specified in 40 CFR 51.165(a)(1)(v)(F), because Virginia has never had an area designated extreme nonattainment for any of the ozone NAAQS. Nonetheless, the Virginia SIP is not required to have this requirement for VOC in extreme nonattainment areas until such time as Virginia has an extreme ozone nonattainment area.

In Virginia's May 11, 2017 SIP revision VADEQ asserted that anti-backsliding provisions do not apply to any area within Virginia, including the northern Virginia/Metropolitan Washington, DC area, because Virginia submitted to EPA a final "redesignation request substitute" for the 1997 ozone NAAQS for the Washington, DC area on April 29, 2016. However, on February 16, 2018, the D.C. Cir. Court issued an opinion on the EPA's regulations implementing the 2008 ozone NAAQS, *i.e.*, the SIP Requirements Rule. *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15–1115, 2018 U.S. App. LEXIS 3636 (D.C. Cir. Feb. 16, 2018). The D.C. Cir. Court found certain provisions from the 2008 Ozone SIP Requirements Rule to be unreasonable including EPA's provision for a "redesignation substitute." The D.C. Cir. Court vacated these provisions and found that redesignations must comply with all required elements in CAA section 107(d)(3). The Court thus found the "redesignation substitute" which did not require all items in CAA section 107(d)(3)(E) violated the CAA and was therefore unreasonable. The D.C. Cir. Court also vacated other provisions relating to anti-backsliding in the 2008 Ozone SIP Requirements Rule as the Court found them to be unreasonable. *Id.* The D.C. Circuit found other parts of the SIP Requirements Rule unrelated to anti-backsliding and this action reasonable and denied the petition for appeal on those. *Id.*

Given the D.C. Cir. Court's recent ruling in *South Coast Air Quality Mgmt. Dist. v. EPA*, Virginia remains required to comply with the anti-backsliding provisions found in 40 CFR 51.165(a)(12) and located in 9VAC5–80 of its SIP which applied to NSR requirements for the 1997 ozone NAAQS. However, EPA finds that the Virginia SIP presently includes all required major stationary source thresholds and emissions offset ratios for NSR purposes which were established for the SIP for Virginia's 1997 8-hour ozone NAAQS nonattainment designation. *See* 82 FR 40703 (finding Virginia's NNSR program

consistent with all federal requirements in August 2017).

Thus, EPA finds that Virginia's SIP includes relevant and required anti-backsliding requirements. Virginia has not changed these major stationary source threshold and offset provisions in 9VAC5–80–2010 C, and furthermore, they remain in Virginia's federally-approved SIP unless and until EPA approves a full redesignation request from Virginia in accordance with CAA section 107.<sup>9</sup> EPA expects that VADEQ will continue to implement its NNSR program consistently with its approved SIP for major stationary source thresholds and emission offset ratios.

The version of 9VAC5–80 that is contained in the current SIP has not changed since the August 28, 2017 rulemaking where EPA last approved Virginia's NNSR provisions as meeting CAA requirements for a NNSR program. This version of the rule (9VAC5–80) covers the Washington, DC Nonattainment Area and remains adequate to meet all applicable NNSR requirements for the 2008 8-hour ozone NAAQS in 40 CFR 51.165, the Phase 2 Rule and the SIP Requirements Rule.

### III. Proposed Action

EPA is proposing to approve Virginia's May 11, 2017 SIP revision addressing the NNSR requirements for the 2008 ozone NAAQS for the Washington, DC Nonattainment Area. EPA has concluded that the Commonwealth's submission fulfills the 40 CFR 51.1114 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165, as well as its obligations under EPA's February 3, 2017 Findings of Failure to Submit relating to submission of a NNSR certification. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### IV. 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

<sup>9</sup> Under the 1997 8-hour ozone NAAQS, the Washington, DC Area was classified as moderate nonattainment.

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 that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) 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 NSR 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.

#### 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 approves 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Public Law 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).

The proposed rule approving Virginia's 2008 8-hour ozone NAAQS Certification SIP revision for NNSR is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 27, 2018.

**Cecil Rodrigues,**

*Deputy Regional Administrator, Region III.*

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**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2018–0171; FRL–9976–43–Region 9]

### Approval of California Plan Revisions, Northern Sonoma County Air Pollution Control District; Stationary Source Permits

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Northern Sonoma