

substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does

not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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**. This rule 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 October 17, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 to approve revisions to the Virginia SIP that update the definition of "volatile organic compound" 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 8, 2006.

Donald S. Welsh,

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 VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by adding an entry for Chapter 10, Section 5–10–20 after the five existing entries for 5–10–20 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Chapter 10 General Definitions [Part I]				
* * *	* * *	* * *	* * *	* * *
5–10–20	Terms Defined	5/04/05	8/18/06 [Insert page number where the document begins].	Revised definition of "volatile organic compound".
* * *	* * *	* * *	* * *	* * *

[FR Doc. E6–13614 Filed 8–17–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2005–VA–0010; FRL–8211–2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to Existing Regulation Provisions Concerning Maintenance, Nonattainment, and Prevention of Significant Deterioration Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions consist of amendments to state regulation provisions concerning maintenance, nonattainment, and prevention of significant deterioration (PSD) areas for incorporation into the Virginia SIP. EPA is approving these SIP revisions in accordance with the Clean Air Act (CAA or Act).

DATES: *Effective Date:* This final rule is effective on September 18, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2005–VA–

0010. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through <http://www.regulations.gov> or in hard copy for public inspection 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: Ellen Wentworth, (215) 814-2034, or by e-mail at wentworth.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 12, 2006 (71 FR 33669), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of formal SIP revisions submitted by the Commonwealth of Virginia on August 15, August 17, August 19, September 28, and October 3, 2005. These SIP revisions consist of amendments to existing regulation provisions concerning maintenance, nonattainment, and PSD areas found in 9 VAC 5, Chapter 20 of Virginia's regulations for the Control and Abatement of Air Pollution.

II. Summary of SIP Revisions

The August 15, 2005 SIP revision amends 9 VAC 5-20-203, Maintenance areas, 9 VAC 5-20-204, Nonattainment areas, and 9 VAC 5-20-205, PSD areas, to reflect the redesignation of the Hampton Roads ozone nonattainment area to attainment of the 1-hour ozone national ambient air quality standards (NAAQS) (62 FR 34408, June 26, 1997).

The August 17, 2005 SIP revision amends 9 VAC 5-20-203, Maintenance areas, 9 VAC 5-20-204, Nonattainment areas, and 9 VAC 5-20-205, PSD areas, to reflect the redesignation of the Richmond ozone nonattainment area to attainment of the 1-hour ozone NAAQS (62 FR 61237, November 17, 1997).

The August 19, 2005 SIP revision amends 9 VAC 5-20-204, Nonattainment areas, and 9 VAC 5-20-

205, PSD areas, to reflect the first repeal of the 1-hour ozone NAAQS (63 FR 31087, June 5, 1998), which removed the White Top Mountain area from the list of 1-hour ozone nonattainment areas and from the list of PSD areas. The White Top Mountain area was later reinstated as a rural transport (marginal) ozone nonattainment area under the 1-hour ozone standard on July 20, 2000 (65 FR 45182), as a result of a 1999 court decision challenging EPA's previous determinations on the applicability of the 1-hour ozone standard.

The September 28, 2005 SIP revision amends 9 VAC 5-20-204, Nonattainment areas, and 9 VAC 5-20-205, PSD areas, by incorporating the new 8-hour ozone nonattainment areas into the list of Virginia's nonattainment areas found in 9 VAC 5-20-204, and revising the list of PSD areas found in 9 VAC 5-20-205. Because the 1-hour ozone standard was revoked, effective June 15, 2005, the revision also adds a provision to 9 VAC 5-20-204, which removed the severe area program in the Northern Virginia ozone nonattainment area as the area was constituted under the 1-hour standard. Because the severe area program imposed more stringent requirements than those required under section 184 of the CAA in that area, Virginia did not need to have a separate new source review (NSR) program meeting the section 184 requirements.

EPA proposed approval of this revision (71 FR, 33670, June 12, 2006), contingent upon the Commonwealth of Virginia implementing the NSR program required under section 184 of the CAA in Virginia's portion of the Ozone Transport Region (OTR). On July 13, 2006 (71 FR 39570), EPA published a final rulemaking implementing the NSR program required under section 184 of the CAA in Virginia's portion of the OTR.

It should be noted that since the September 28, 2005 SIP revision submittal, EPA has redesignated the Fredericksburg (70 FR 76165, December 23, 2005) and Shenandoah National Park (71 FR 24, January 3, 2006) areas to attainment of the 8-hour ozone NAAQS.

Other specific requirements pertaining to 9 VAC 5, Chapter 20 of Virginia's regulations for the Control and Abatement of Air Pollution and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

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 Clean Air Act, 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 Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Final Action

EPA is approving the amendments to existing regulations pertaining to nonattainment, maintenance, and PSD areas found in 9 VAC 5 Chapter 20, submitted on August 15, 17, 19, September 28, and October 3, 2005, as revisions to the Commonwealth of Virginia SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule

will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks) (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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**. This rule 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 October 17, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 amendments to Virginia’s existing regulation provisions concerning maintenance, nonattainment, and PSD areas, 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, Carbon monoxide, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 8, 2006.

Donald S. Welsh,
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 VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Chapter 20, sections 5–20–203, 5–20–204, and 5–20–205 to read as follows:

§ 52.2420 Identification of plan.

(c) * * *

* * * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Chapter 20 General Provisions [Part II]				
*	*	*	*	*
5-20-203	Air Quality Maintenance Areas (AQMA)	01/01/98, 04/ 01/98	08/18/06 [Insert page number where the document begins].	
5-20-204	Nonattainment Areas	01/01/98, 04/ 01/98, 01/01/ 99, 08/25/04, 01/12/05	08/18/06 [Insert page number where the document begins].	
5-20-205	Prevention of Significant Deterioration Areas	01/01/98, 04/ 01/98, 01/01/ 99, 08/25/04	08/18/06 [Insert page number where the document begins].	
*	*	*	*	*

[FR Doc. E6-13615 Filed 8-17-06; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 300**

[FRL-8210-9]

**National Oil and Hazardous Substance
Pollution Contingency Plan National
Priorities List; Technical Correction****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Technical Correction of final
partial deletion of the South Andover
Salvage Yards Superfund Site from the
National Priorities List.

SUMMARY: On September 15, 1998 (63 FR 49321), EPA published a "Notice of intent to delete Operable Unit 2 of the South Andover Salvage Yards site from the National Priorities List; request for comments," and on October 28, 1998 (63 FR 57608), a "Final Rule; notice of deletion for Operable Unit 2 of the South Andover Salvage Yards Superfund Site from the National Priorities List (NPL)." The EPA is publishing this Technical Correction to the October 28, 1998 final notice of deletion due to errors that were published in that notice and in the National Priorities List at 40 CFR part

300, Appendix B. After review of the final notice of deletion and the National Priorities List, EPA is publishing this Technical Correction today to change the word "removing" in the October 28, 1998 final notice of deletion to the word "revising" and to amend 40 CFR part 300, Appendix B by adding the South Andover Site, Andover, Minnesota, and inserting a "P" in the Notes (a) column for the South Andover Site, Andover, Minnesota. EPA will place a copy of the final partial deletion package in the site repositories.

DATES: *Effective Date:* This Technical Correction of the direct final action is effective as of August 18, 2006.

ADDRESSES: Comprehensive information on the Site, as well as the comments that were received during the comment period are available at: Don deBlasio, Community Involvement Coordinator, U.S. EPA, P19J, 77 W. Jackson, Chicago, IL, (312) 886-4360 or 1-800-621-8431.

FOR FURTHER INFORMATION CONTACT:

Gladys Beard, State NPL Deletion Process Manager, U.S. EPA (SR-6J), 77 W. Jackson, Chicago, IL 60604, (312) 886-7253 or 1-800-621-8431.

SUPPLEMENTARY INFORMATION:

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region V Library, 77 W. Jackson,

Chicago, IL 60604, (312) 353-5821, Monday through Friday 8 a.m. to 4 p.m.; Andover City Hall, 1685 N. W. Crosstown Blvd., Andover, MN 55303.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 9, 2006.

Norman Niedergang,

Acting Regional Administrator, EPA Region V.

■ For the reasons stated in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended under Minnesota "MN" by adding the entry for "South Andover" to read as follows:

**Appendix B to Part 300—National
Priorities List**

TABLE 1.—GENERAL SUPERFUND SECTION

State	Sitename	City/County	(Notes) ^a
*	*	*	*
MN	South Andover Site	Andover	P