For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR Part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–146 is added to read as follows:

§ 165.T07–146 Security Zones; Charleston Harbor, Cooper River, South Carolina.

(a) *Regulated area.* (1) A temporary fixed security zone is established for the waters around the Highway 17 bridges, to encompass all waters of the Cooper River within a line connecting the following points: 32 deg.48.23′ N, 079 deg.55.3′ W; 32 deg.48.1′ N, 079 deg.54.35′ W; 32 deg.48.34′ N, 079 deg.55.25′ W; 32 deg.48.2′ N, 079 deg.54.35′ W.

(2) Another temporary fixed security zone is established for the waters around the Interstate 526 Bridge spans (Don Holt Bridge) in Charleston Harbor and on the Cooper River and will encompass all waters within a line connecting the following points: 32 deg.53.49′ N, 079 deg.58.05′ W; 32 deg.53.42′ N, 079 deg.57.48′ W; 32 deg.53.53′ N, 079 deg.58.05′ W; 32 deg.53.47′ N, 079 deg.57.47′ W.

(b) *Regulations.* In accordance with the general regulations 165.33 of this part, vessels are allowed to transit through these zones but are prohibited from mooring, anchoring, or loitering within these zones unless specifically authorized by the Captain of the Port.

(c) *Authority.* In addition to 33 U.S.C. 1321 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective dates.* This section is effective on December 17, 2002 until 11:59 p.m. on July 15, 2003.

Dated: December 2, 2002.

G.W. Merrick,

Commander, Coast Guard, Captain of the Port.

[FR Doc. 02–31600 Filed 12–13–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA125–5058a; FRL–7422–1]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Repeal of Emission Standards for Perchloroethylene Dry Cleaning Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Virginia State Implementation Plan (SIP). The revision consists of the repeal of emission standards for perchloroethylene (perc) dry cleaning systems. EPA is approving this revision in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on February 14, 2003 without further notice, unless EPA receives adverse written comment by January 15, 2003. 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: Written comments should be mailed to Walter Wilkie, Acting Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available 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, and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Pauline De Vose, (215) 814–2186, or by e-mail at *devose.pauline@epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

On November 9, 2001, the Commonwealth of Virginia (Virginia) submitted a formal revision to its SIP. The SIP revision consists of the repeal of emission standards for perc dry cleaning systems contained in Article 38 (9 VAC 5–40–5350 *et seq.*) of 9 VAC 5 Chapter 40.

Perc was added to the list of compounds excluded from the definition of volatile organic compound (VOC) on the basis that it has negligible photochemical reactivity (40 CFR 51.100 (s)). Perc is a solvent commonly used in dry cleaning, maskant operations and degreasing operations.

Summary of SIP Revision

The SIP revision contained in Article 38 (9 VAC 5–40–5350 *et seq.*) of 9 VAC 5 Chapter 40 requires the owners and operators of perc dry cleaning systems to limit air emissions. The SIP revision is repealing the emission standards of perc, since perc has a negligible photochemical reactivity and has an insignificant impact on ozone formation (61 FR 4588, February 7, 1996).

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, 1997, 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, 1997 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.

II. Final Action

EPA is approving the revision to the Virginia SIP repealing the emission standards for perc dry cleaning systems contained in Article 38 (9 VAC 5–40–5350 *et seq.*) of 9 VAC 5 Chapter 40. 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 February 14, 2003 without further notice unless EPA receives adverse comment by January 15, 2003. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Administrative Requirements

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 (Pub. L. 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 standard, 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 February 14,

2003. 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 the repeal of emission standards for perc dry cleaning systems from the Virginia SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Recordkeeping and reporting requirements, Volatile organic compounds.

Dated: December 4, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart VV—Virginia

2. In § 52.2420, the table in paragraph (c) is amended by removing the entry for Chapter 40, Part II, Article 38 Dry Cleaning Systems [Rule 4–38].

[FR Doc. 02–31470 Filed 12–13–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7412–6]

New Jersey: Final Authorization of State Hazardous Waste Program Revision

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* (''RCRA''), and the regulations thereunder, the State of New Jersey (the ''State'') applied for final authorization of changes to its hazardous waste program. These revisions were adopted by the State in January 1999. The Environmental Protection Agency, Region 2 (''EPA'') has reviewed the State's application and has determined that the State's revisions to its hazardous waste program satisfy all of the requirements necessary to qualify for final authorization. Accordingly, EPA is today approving and authorizing the State's revisions through this immediate final rule. EPA did not publish a proposal before today's rule because it views this as a routine program change to the State's hazardous waste program and does not expect comments that oppose this approval. Consequently, unless EPA receives written comments which oppose this authorization during the comment period, the decision to authorize the revisions to the State's hazardous waste program will take effect as provided below. If EPA receives comments that oppose this action, EPA shall publish a document in the **Federal Register** withdrawing this rule before it takes effect. In addition to this rule, EPA is publishing in the proposed rules section of today's **Federal Register**, a separate notice that proposes to authorize the State's program revisions. This proposal (the ''companion proposal'') will serve as a proposal to authorize the State's program revisions, if necessary, as explained more fully below in the section identifying the effective date of this rule as well as in the companion proposal itself.

DATES: This rule will become effective on February 14, 2003, unless adverse comments are received by January 15, 2003. If EPA receives such comment, EPA will publish a timely withdrawal of this rule in the **Federal Register** and inform the public that this rule will not take effect.

ADDRESSES: Written comments should be sent to Walter M. Mugdan, Director, Division of Environmental Planning and Protection, U.S. EPA, Region 2, 290 Broadway, New York, New York 10007–1866, (212) 637–3724. For further information contact Clifford Ng, Division of Environmental Planning and Protection, USEPA, Region 2, 290 Broadway (22nd Floor) New York, NY 10007–1866; telephone (212) 637–4113; E mail—*ng.clifford@epamail.epa.gov.*

Copies of the State's application for authorization are available for inspection and copying as follows:

The New Jersey Department of Environmental Protection (''NJDEP'')

Address: Public Access Center, NJDEP, 401 East State Street, 1st Floor, Trenton, NJ 08625.

Hours: Monday through Friday (excluding holidays), 8:30 a.m.–1 p.m., 2 p.m.–4:30 p.m.

Telephone: (609) 777–3373.

EPA

Address: EPA Library, 16th Floor, 290 Broadway, New York, NY 10007–1866.

Hours: Monday through Thursday (excluding holidays), 9 a.m.–4:30 p.m., Friday (excluding holidays), 9 a.m.–1 p.m.

Telephone: (212) 637–3185.

FOR FURTHER INFORMATION CONTACT: Clifford Ng, (212) 637–4113.

SUPPLEMENTARY INFORMATION: This rule will become effective on February 14, 2003, unless adverse comments are received during the comment period. In the event that such adverse comments are received, EPA will publish in the **Federal Register** a notice withdrawing this rule before it becomes effective. EPA will then base any further decision on the authorization of the State's program revisions on the companion proposal published in today's **Federal Register** and will address all public comments in a later final rule. Interested persons may not have another opportunity to comment. Therefore, if you want to comment on this authorization, you must do so at this time. If EPA receives comments that oppose only the authorization of a particular revision to the State's hazardous waste program, EPA will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The **Federal Register** notice of withdrawal will specify which part of the authorization will become effective, and which part is being withdrawn.

I. State Authorization Under RCRA

Pursuant to section 3006 of RCRA, 42 U.S.C. 6926, EPA may, upon application by a state, authorize the applicant state's hazardous waste program to operate in the state in lieu of the federal hazardous waste program. For purposes of authorization, the federal hazardous waste program (the ''Federal Program'') is comprised of the regulations published in Title 40 of the Code of Federal Regulations (''CFR'') under the authority of RCRA. To qualify for final authorization, a state's hazardous waste program must: (1) Be equivalent with the Federal Program; (2) be consistent with the Federal Program; and (3) provide for adequate enforcement. RCRA section 3006(b), 42 U.S.C. 6926(b).

II. Background—History of RCRA Authorization Within the State

In 1985, the State was granted final authorization by EPA for the RCRA base program, effective February 21, 1985 (50 FR 5260, 2/7/85). At that time the base