

place or the planning regulations in effect before November 9, 2000, for the next revision of its land management plan to respond to the court's order.

This plan is a programmatic document that provides guidance and information for future project-level resource management decisions. The revised plan may designate major rights-of-way corridors for utility transmission lines, pipelines, and water canals. The effects of such designations on energy supply, distribution, or use will be considered at the time such designations are proposed.

#### *Controlling Paperwork Burdens on the Public*

This final rule does not contain any additional record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use and, therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

#### *Federalism*

The Department has considered this final rule under the requirements of Executive Order 13132, Federalism. The Department has made an assessment that the rule conforms with the Federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Department concludes that the final rule does not have Federalism implications.

#### *Consultation With Tribal Governments*

This final rule does not have tribal implications as defined in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

#### *No Takings Implications*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule does not pose the risk of a taking of private property. This final rule only allows the Tongass National Forest to use either the existing planning regulations or the regulations

in effect before November 9, 2000, for its next plan revision.

#### *Civil Justice Reform*

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Department has not identified any State or local laws or regulations that are in conflict with this regulation or that would impede full implementation of this rule. After adoption of this final rule: (1) All State and local laws or regulations that conflict with this rule or that would impede full implementation would be preempted; (2) no retroactive effect would be given to this final rule; and (3) the final rule would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

#### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this final rule on State, local, and Tribal governments and the private sector. This final rule does not compel the expenditure of \$100 million or more by any State, local, or Tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

#### **List of Subjects in 36 CFR Part 219**

Administrative practice and procedure, Environmental impact statements, Indians, Intergovernmental relations, Forest and forest products, National forests, Natural resources, Reporting and recordkeeping requirements, Science and technology.

■ Therefore, for the reasons set forth in the preamble, the Department of Agriculture amends subpart A of part 219 of title 36 of the Code of Federal Regulations as follows:

#### **PART 219—PLANNING**

##### **Subpart A—National Forest System Land Management Planning**

■ 1. The authority citation for subpart A continues to read as follows:

**Authority:** 5 U.S.C. 301; 16 U.S.C. 1604, 1613.

■ 2. Amend § 219.14 by revising paragraph (d)(1) to read as follows:

##### **§ 219.14 Effective dates and transition.**

\* \* \* \* \*

(d)(1) Plan development and plan revisions initiated after January 5, 2005 must conform to the requirements of

this subpart, except that the plan for the Tongass National Forest may be revised once under this subpart or the planning regulations in effect before November 9, 2000.

\* \* \* \* \*

Dated: February 22, 2006.

**David P. Tenny,**

*Deputy Under Secretary, Natural Resources and Environment.*

[FR Doc. 06–2021 Filed 3–2–06; 8:45 am]

**BILLING CODE 3410–11–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA–R03–OAR–2005–VA–0014; FRL–8039–8]**

### **Approval and Promulgation of Air Quality Implementation Plans; Virginia; Documents Incorporated by Reference**

**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 revisions consist of revised citations, editions, and corrected addresses to documents which are incorporated by reference in Virginia's SIP-approved regulations. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on May 2, 2006 without further notice, unless EPA receives adverse written comment by April 3, 2006. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2005–VA–0014 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

C. Mail: EPA–R03–OAR–2005–VA–0014, Harold A. Frankford, Office of Air Programs, Mailcode 3AP20, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2005-VA-0014. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814-2108, or by e-mail at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Background

On August 25, 2005 and October 25, 2005, the Commonwealth of Virginia submitted formal revisions to its State Implementation Plan (SIP). The SIP revisions consist of revised citations, editions, and corrected addresses to technical documents which are incorporated by reference in Virginia's SIP regulations.

## II. Summary of SIP Revisions

### A. Description of Submittals

On August 25, 2005, Virginia submitted revised citations, editions, and corrected addresses to technical documents which are incorporated by reference in Virginia's regulations. The document citations are listed in Virginia Regulation 9 VAC 5-20-21. The referenced publications include documents such as "Code for Motor Fuel Dispensing Facilities and Repair Garages," "Standard for Tank Vehicles and Flammable and Combustible Liquids," and "Flammable and Combustible Liquids Code" by the National Fire Protection Association (NFPA); "Atmospheric Emissions from Sulfuric Acid Manufacturing Processes" by the Environmental Protection Agency; and "Test for Pour Point of Petroleum Oils" by the American Society for Testing and Materials (ASTM). Virginia has also updated the citations, editions and addresses of documents prepared by EPA, ASTM, NFPA, the U.S. Government Printing Office (GPO), and American Petroleum Institute (API). In addition, Virginia has revised rules in 9 VAC 5, Chapter 40, Articles 5 (Synthesized Pharmaceutical Products Manufacturing Operations), 21 (Sulfuric Acid Production Units), and 37 (Petroleum Liquid Storage and Transfer Operations) which cross-reference the documents that are listed in Regulation 9 VAC 5-20-21. The submittal also contains an updated reference to the July 1, 2002 Code of Federal Regulations (CFR) which Virginia cites in its State regulations.

On October 25, 2005, Virginia submitted an additional revision to the provision in 9 VAC 5-20-21.B. This revision states that any reference to the CFR in Virginia's SIP-approved regulations means those CFR provisions which are in effect as of July 1, 2004.

### B. EPA Evaluation

EPA has determined that these SIP revisions incorporate the most up-to-date version of technical documents that are referenced in Virginia's air pollution control regulations, thus ensuring the proper implementation of the air pollution control regulations which

comprise the SIP. EPA's approval of the revisions to 9 VAC 5-20-21.B is for those provisions of the CFR which implement control programs for air pollutants related to the national ambient air quality standards (NAAQS) and regional haze.

## 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 revisions to the Virginia SIP submitted by the Commonwealth of Virginia on August 25, 2005 and October 25, 2005. These revisions consist of revised citations, editions, and corrected addresses to documents that are incorporated by reference in Virginia's SIP-approved regulations. 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 May 2, 2006 without further notice unless EPA receives adverse comment by April 3, 2006. 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.

#### 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 (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 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 May 2, 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 the revisions to Virginia rule 9 VAC 5-20-21 that update the technical documents and CFR provisions which are incorporated by reference 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 22, 2006.  
**William Early,**  
*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 Section 52.2420, the tables in paragraphs (c) and (e) are amended:

■ a. In paragraph (c) by revising the entries for State citations 5-40-460, 5-40-2930, 5-40-5210, and 5-40-5230 for Chapter 40.

■ b. In paragraph (e) by adding entries for Documents Incorporated by Reference after the existing entries.

■ The amendments 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]
* * *	* * *	* * *	* * *	* * *
<b>Chapter 40 Existing Stationary Sources [Part IV]</b>				
* * *	* * *	* * *	* * *	* * *
<b>Part II Emission Standards</b>				
* * *	* * *	* * *	* * *	* * *
<b>Article 5 Emission Standards for Synthesized Pharmaceutical Products Manufacturing Operations (Rule 4-5)</b>				
* * *	* * *	* * *	* * *	* * *
5-40-460 .....	Control Technology Guidelines.	2/1/02	3/3/06 [Insert page number where the document begins].	
<b>Article 21 Emission Standards for Sulfuric Acid Production Units (Rule 4-21)</b>				
* * *	* * *	* * *	* * *	* * *
5-40-2930 .....	Monitoring .....	2/1/02	3/3/06 [Insert page number where the document begins].	
<b>Article 37 Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rule 4-37)</b>				
* * *	* * *	* * *	* * *	* * *
5-40-5210 .....	Definitions .....	2/1/02	3/3/06 [Insert page number where the document begins].	
5-40-5230 .....	Control Technology Guidelines.	2/1/02	3/3/06 [Insert page number where the document begins].	
* * *	* * *	* * *	* * *	* * *

\* \* \* \* \*

(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Documents Incorporated by Reference (9 VAC 5–20–21, Sections D., E. (introductory sentence), E.2 (all paragraphs), E.3.b, E.4.a.(1) and (2), E.4.b., E.5. (all paragraphs), and E.7. (all paragraphs)).	Statewide .....	8/25/05	3/3/06 [Insert page number where the document begins].	State effective date is 2/1/00.
Documents Incorporated by Reference (9 VAC 5–20–21, Section B).	Statewide .....	10/25/05	3/3/06 [Insert page number where the document begins].	State effective is 3/9/05; approval is for those provisions of the CFR which implement control programs for air pollutants related to the national ambient air quality standards (NAAQS) and regional haze.

[FR Doc. 06–1943 Filed 3–2–06; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R03–OAR–2005–VA–0016; FRL–8040–1]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to the Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision pertains to the amendments of the Commonwealth’s existing ambient air quality standards. EPA is approving this SIP revision in accordance with the Clean Air Act (CAA or Act).

**EFFECTIVE DATE:** This final rule is effective on April 3, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2005–VA–0016. All documents in the docket are listed in the *www.regulations.gov* website. 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 *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:** Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On January 6, 2006 (71 FR 892), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of the amendments to the Commonwealth’s existing ambient air quality standards, 9 VAC 5 Chapter 30. The formal SIP revision was submitted by the Virginia Department of Environmental Quality (VADEQ) on September 26, 2005.

**II. Summary of SIP Revision**

The Commonwealth’s SIP revision incorporates the 1997 national ambient air quality standards (NAAQS) for the 8-hour ozone and PM<sub>2.5</sub> into the Virginia Regulations for the Control and Abatement of Air Pollution: 9 VAC 5 Chapter 30, Ambient Air Quality Standards. The other SIP revisions incorporated into 9 VAC 5 Chapter 30, are amendments to the ambient air quality standards for sulfur dioxide, carbon monoxide, ozone (1-hour), PM<sub>10</sub>,

nitrogen dioxide, and lead to make the state regulation consistent with 40 CFR part 50.

Other specific requirements of Regulation 9 VAC 5 Chapter 30 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