

Also, we are eliminating the hyphen in the term “post-traumatic stress disorder” in § 3.304(f) to reflect current medical terminology.

**Administrative Procedure Act**

In accordance with 5 U.S.C. 553(b)(3)(B), the Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for prior comment with respect to this rule, which eliminates the need for evidence to corroborate the occurrence of a stressor in claims in which a veteran was diagnosed with PTSD during service. The Secretary finds that it is impracticable, unnecessary, and contrary to the public interest to delay this regulation, which will speed up processing of PTSD claims, for the purpose of soliciting prior public comment because the regulation relieves an unnecessary proof requirement for certain veterans disabled by service-connected PTSD who need VA benefits as soon as possible to compensate for loss in wage-earning capacity. For the foregoing reasons, the Secretary of Veterans Affairs is issuing this rule as an interim final rule. The Secretary of Veterans Affairs will consider and address comments that are received within 30 days of the date this interim final rule is published in the **Federal Register**.

**Paperwork Reduction Act**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This interim final rule will not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

**Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a “significant regulatory action,” requiring review by

the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined, and it has been determined not to be a significant regulatory action under the Executive Order.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This interim final rule would have no such effect on State, local, and tribal governments, or on the private sector.

**Catalog of Federal Domestic Assistance Numbers and Titles**

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.109, Veterans Compensation for Service-Connected Disability and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

**List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: October 7, 2008.  
**Gordon H. Mansfield,**  
*Deputy Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, VA is amending 38 CFR part 3 as follows:

**PART 3—ADJUDICATION**

■ 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

- 2. Amend § 3.304(f) by:
  - a. Revising the paragraph heading and introductory text.
  - b. Redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by adding new paragraph (1).
  - c. Removing “post-traumatic” each place it appears and add, in its place, “posttraumatic”.

The revisions and addition read as follows:

**§ 3.304 Direct service connection; wartime and peacetime.**

\* \* \* \* \*

(f) *Posttraumatic stress disorder.* Service connection for posttraumatic stress disorder requires medical evidence diagnosing the condition in accordance with § 4.125(a) of this chapter; a link, established by medical evidence, between current symptoms and an in-service stressor; and credible supporting evidence that the claimed in-service stressor occurred. The following provisions apply to claims for service connection of posttraumatic stress disorder diagnosed during service or based on specified in-service stressors:

(1) If the evidence establishes a diagnosis of posttraumatic stress disorder during service and the claimed stressor is related to that service, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran’s service, the veteran’s lay testimony alone may establish the occurrence of the claimed in-service stressor.

\* \* \* \* \*

[FR Doc. E8–25735 Filed 10–28–08; 8:45 am]

BILLING CODE 8320–01–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R03–OAR–2008–0656; FRL–8735–4]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Movement of Richmond and Hampton Roads 8-Hour Ozone Areas From the Nonattainment Area List to the Maintenance Area List**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Virginia State Implementation Plan (SIP). This revision moves the Richmond and Hampton Roads 8-Hour Ozone Nonattainment Areas from the nonattainment areas list to the maintenance areas list. EPA is approving this revision to move the Richmond and Hampton Roads 8-Hour Ozone Nonattainment Areas from the list of nonattainment areas to the list of maintenance areas in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on December 29, 2008 without further notice, unless EPA receives adverse written comment by November 28, 2008. 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-2008-0656 by one of the following methods:

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

B. *E-mail:*  
*fernandez.cristina@epa.gov*.

C. *Mail:* EPA-R03-OAR-2008-0656, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, 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-2008-0656. 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:** Patrick Egan, (215) 814-3167, or by e-mail at [egan.patrick@epa.gov](mailto:egan.patrick@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On April 15, 2004, the Richmond and the Hampton Roads Areas were designated as nonattainment areas for the 8-Hour Ozone National Ambient Air Quality Standards (NAAQS). On September 20, 2006, Virginia Department of Environmental Quality (VADEQ) formally submitted a redesignation request for the Richmond Area along with a maintenance plan on September 25, 2006. On October 16, 2006, VADEQ formally submitted a redesignation request for the Hampton Roads Area, along with a maintenance plan on October 18, 2006. On June 1, 2007, (72 FR 30485 & 72 FR 30490) EPA published final rulemaking actions approving the redesignation request and maintenance plan for the Richmond and Hampton Roads Areas. On July 6, 2007,

(72 FR 32895), EPA published a correction notice for the June 1, 2007 (72 FR 30490) **Federal Register** correcting the omission of York County as part of the Hampton Roads redesignation.

**II. Summary of SIP Revision**

On July 29, 2008, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of a regulatory change that moves the Richmond Area 8-Hour Ozone Nonattainment Area (Counties of Charles City, Chesterfield, Hanover, Henrico, and Prince George; Cities of Colonial Heights, Hopewell, Petersburg, and Richmond) and the Hampton Roads 8-Hour Ozone Nonattainment Area (Counties of Gloucester, Isle of Wight, James City and York; Cities of Chesapeake, Hampton, Newport News, Portsmouth, Poquoson, Norfolk, Suffolk, Virginia Beach and Williamsburg) from the list of nonattainment areas found in regulation 9 VAC 5-20-204 to the list of maintenance areas found in regulation 9 VAC 5-20-203.

**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 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.

#### IV. Final Action

EPA is approving the Commonwealth's revision to move the Richmond and Hampton Roads Area from 8-hour ozone nonattainment list to the 8-hour ozone maintenance list. 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 December 29, 2008 without further notice unless EPA receives adverse comment by November 28, 2008. 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.

#### V. Statutory and Executive Order Reviews

##### A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

##### 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 action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action 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 December 29, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 the revision to move the Richmond Area and the Hampton Roads Area from the 8-hour ozone nonattainment list to the 8-hour ozone maintenance list 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, Incorporation by

reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 20, 2008.

**Donald S. Welsh,**  
Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for 40 CFR 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, section 5–20–203 and 5–20–204 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]
*	*	*	*	*
<b>Chapter 20 General Provisions</b>				
*	*	*	*	*
<b>Part II Air Quality Programs</b>				
*	*	*	*	*
5–20–203 .....	Air Quality Maintenance Areas .....	7/29/08	10/29/08 [Insert page number where the document begins].	Richmond and Hampton Roads 8-Hour Ozone Areas are added.
5–20–204 .....	Nonattainment Areas .....	7/29/08	10/29/08 [Insert page number where the document begins].	Richmond and Hampton Roads 8-Hour Ozone Areas are deleted.
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. E8–25673 Filed 10–28–08; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R05–OAR–2008–0198; FRL–8722–9]

**Approval and Promulgation of Air Quality Implementation Plans; Illinois**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Illinois Environmental Protection Agency (IEPA) on January 24, 2008, to revise the Illinois State Implementation Plan (SIP) for volatile organic compounds (VOC). The approval revises the Illinois SIP by updating information regarding the packaging production facility of

Cromwell-Phoenix, Incorporated, located in Alsip, Illinois. It acknowledges that the source has changed its name from Cromwell-Phoenix, Incorporated, to CP–D Acquisition Company, LLC, as a consequence of a change in ownership. The revision does not change any of the VOC control requirements and will not increase VOC emissions because no emission limits were increased.

**DATES:** This rule is effective on December 29, 2008, unless EPA receives adverse written comments by November 28, 2008. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2008–0198 by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.
- *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

- *Fax:* (312) 886–5824.
- *Mail:* John Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2008–0198. 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