minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishment of a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 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; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–1166 to read as follows:

§ 165.T05–1166 Safety Zone; Atlantic Intracoastal Waterway, Vicinity of Marine Corps Base, Camp Lejeune, NC.

(a) *Regulated Area.* The following area is a safety zone: specified waters of the Captain of the Port Sector North Carolina zone, as defined in 33 CFR 3.25–20, in the vicinity of the Atlantic Intracoastal Waterway between position 34°32′51″ N/077°19′36″ W and 34°34′15″ N/077°16′16″ W (NAD 1983).

(b) Definition: For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Sector North Carolina, North Carolina to act on his behalf.

(c) Regulations: (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Sector North Carolina or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Sector North Carolina can be reached through the Sector Duty Officer at Sector North Carolina in Wilmington, North Carolina at telephone Number 910–343–3880.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 MHz).

(d) Enforcement Period: This regulation will be enforced from 7 a.m. until 11 a.m., and from 12:01 p.m. until 4 p.m. on February 6, 2012; from 7 a.m. until 11 a.m., and from 12:01 p.m. until 4 p.m. on February 7, 2012.

Dated: January 20, 2012.

Anthony Popiel,

Captain, U.S. Coast Guard, Captain of the Port Sector North Carolina.

[FR Doc. 2012–2390 Filed 2–2–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0731; FRL–9625–8]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to Virginia's Regulation Regarding the Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia (Virginia). This revision pertains to amendments of Virginia's regulations regarding the 2010 1-hour primary national ambient air quality standard (NAAQS) for sulfur dioxide (SO_2). This action is being taken under the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on March 5, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID

Number EPA–R03–OAR–2011–0731. 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.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On October 14, 2011 (76 FR 63859), EPA published a notice of proposed rulemaking (NPR) for Virginia. The NPR proposed approval of amendments to Virginia's regulation regarding the SO_2 NAAQS. The formal SIP revision was submitted by Virginia on July 12, 2011. Additional background information behind this SIP revision is discussed in detail in the NPR. EPA received no comments on this NPR.

II. Summary of SIP Revision

In June 2010, EPA revised the primary SO_2 NAAQS, establishing a 1-hour standard at the level of 75 parts per billion (ppb). The amendments to Virginia's regulations include the adoption of the 2010 1-hour SO_2 NAAQS and the nullification of the existing annual and 24-hour primary SO_2 NAAQS one year after area designations for the 2010 1-hour primary SO_2 NAAQS. These amendments can be found under Regulation 9VAC5–30–30. There were also administrative changes regarding these amendments. These changes include updates to documents incorporated by reference under 40 CFR Part 50, as well as administrative changes regarding those updates. These changes can be found under Regulation 9VAC5–20–21.E.1.

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 Virginia SIP revision that adopts the 2010 1-hour primary SO_2 NAAQS under Regulation 9VAC5–30–30 and updates documents incorporated by reference found under 40 CFR Part 50 under Regulation 9VAC5–20–21.E.1.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 CAA; and

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

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 2012. 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 pertaining to amendments of Virginia's regulations regarding the 2010 1-hour SO_2 NAAQS 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, Sulfur oxides.

Dated: January 17, 2012.

W.C. Early,

Acting 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 entry for Section 5–30–30. The table in paragraph (e) is amended by adding an entry for Documents Incorporated by Reference after the thirteenth existing entry for Documents Incorporated by Reference. The amendments read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	* * * *	*	*	*
9 VAC 5 Chapter 30—Ambient Air Quality Standards [Part III]				
*	* * * *	*	*	*
5–30–30	Sulfur Oxides (Sulfur Dioxide)	5/25/11	2/3/12 [*Insert page number where the document begins*].	Addition of paragraphs A.2 through A.4; revisions to paragraphs A.1, C. and D.
*	* * * *	*	*	*

* * * * *

(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, Section E.1.a.(1)).	Statewide	5/25/11	2/3/12 [*Insert page number where the document begins*].	Addition of paragraphs (1)(a) and (1)(u). The citations of all other paragraphs are revised.
* * * * * * *				

[FR Doc. 2012–2334 Filed 2–2–12; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL SCIENCE FOUNDATION

45 CFR Part 670

Conservation of Antarctic Animals and Plants

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: Pursuant to the Antarctic Conservation Act of 1978, The National Science Foundation (NSF) is amending its regulations to reflect newly designated Antarctic Specially Protected Areas (ASPA), Antarctic Specially Managed Areas (ASMA) and Historical Sites or Monuments (HSM). These additions reflect measures already adopted by the Antarctic Treaty Parties at recent Antarctic Treaty Consultative Meetings (ATCM). Finally, the regulation is being revised to correct some typographical and numbering errors.

DATES: Effective February 3, 2012.

FOR FURTHER INFORMATION CONTACT: Bijan Gilanshah, Office of the General Counsel, (703) 292–8060.

SUPPLEMENTARY INFORMATION: The Antarctic Conservation Act of 1978, as amended (''ACA'') (16 U.S.C. 2401, *et seq.*) implements the Protocol on Environmental Protection to the Antarctic Treaty (''the Protocol'').

Annex V contains provisions for the protection of specially designated areas specially managed areas and historic sites and monuments. Section 2405 of title 16 of the ACA directs the Director of the National Science Foundation to issue such regulations as are necessary and appropriate to implement Annex V to the Protocol.

The Antarctic Treaty Parties, which includes the United States, periodically adopt measures to establish additional specially protected areas, specially managed areas and historical sites or monuments in Antarctica. This rule is being revised to reflect three newly added Antarctic specially protected areas (ASPAs 168–171), one specially managed area (ASMA 7) and five historical sites and monuments in Antarctica (HSM 83–87).

Public Participation

The addition of these areas and sites merely reflects decisions already made by the Antarctic Treaty Parties at various international ATCM meetings. Because these amendments involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Further, because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply. Although this rule is exempt from the Regulatory Flexibility Act, it has nonetheless been determined that this rule will not have a significant impact on a substantial number of small businesses. Finally, as the agency has determined that this action pertains to the foreign affairs function of the United States it accordingly is not a ''rule'' as that term is used by the Congressional Review Act (5 U.S.C. 801–808). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Environmental Impact

This final rule makes conforming changes to the National Science Foundation's regulations to reflect the substantive outcomes of recent Antarctic Treaty Consultative Meetings. The actions taken by the Antarctic Treaty Parties to specially protect and manage these new Antarctic areas and historic resources will result in added protection of the Antarctic environment and its historic resources.

No Takings Implications

The Foundation has determined that the final rule will not involve the taking of private property pursuant to E.O. 12630.

Civil Justice Reform

The Foundation has considered this final rule under E.O. 12988 on civil justice reform and determined the principles underlying and requirements of E.O. 12988 are not implicated.

Federalism and Consultation and Coordination With Indian Tribal Governments

The Foundation has considered this final rule under the requirements of E.O. 13132 on federalism and has determined that the final rule conforms with the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Foundation has determined that no further assessment of federalism implications is necessary.

Moreover, the Foundation has determined that promulgation of this final rule does not require advance consultation with Indian Tribal officials as set forth in E.O. 13175, Consultation and Coordination with Indian Tribal Governments.

Energy Effects

The Foundation has reviewed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Foundation has determined that this final rule does not constitute a significant energy action as defined in the E.O.

Unfunded Mandates

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