

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP—Continued

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
26.11.34.14 .....	Enforcement .....	12/17/07	6/11/13; [Insert page number where the document begins].	
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 [FR Doc. 2013-13717 Filed 6-10-13; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2013-0289; FRL-9822-3]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision to the Classification and Implementation of the 2008 Ozone National Ambient Air Quality Standards for the Northern Virginia Nonattainment Area**

**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 two amendments: an amendment to the list of nonattainment areas; and an amendment to the 1997 National Ambient Air Quality Standards (NAAQS) for ozone for purposes of transportation conformity. EPA is approving these revisions to include the classification of Northern Virginia as “marginal” for the 2008 ozone NAAQS, and to revoke the 1997 ozone NAAQS for the purposes of transportation conformity as established by the EPA in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on August 12, 2013 without further notice, unless EPA receives adverse written comment by July 11, 2013. 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-2013-0289 by one of the following methods:

A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

B. Email: [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).  
 C. Mail: EPA-R03-OAR-2013-0289, Cristina Fernandez, Associate Director, Office of Air Program Planning, Air Protection Division, Mailcode 3AP30, 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-2013-0289. EPA’s policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email 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

[www.regulations.gov](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 [www.regulations.gov](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:** Gregory Becoat, (215) 814-2036, or by email at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Summary of SIP Revision**

On March 20, 2013, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of two amendments to the Virginia Administrative Code: (1) an amendment to the list of nonattainment areas in section 9VAC5-20-204, and (2) an amendment to the 1997 NAAQS for ozone specified in section 9VAC5-30-55. The first is an amendment that reflects EPA’s rulemaking action on May 21, 2012 to establish initial air quality designations for most areas in the United States for the 2008 primary and secondary ozone NAAQS (77 FR 30087). In this rulemaking action, EPA designated the Northern Virginia nonattainment area as “marginal” for the 2008 ozone NAAQS. The second amendment reflects a separate EPA rulemaking action also made on May 21, 2012, in which the EPA provided for the revocation of the 1997 ozone NAAQS for transportation conformity purposes one year after the effective date of designations for the 2008 ozone NAAQS (77 FR 30160). For Virginia, one year after the effective date is July 20, 2013.

## II. 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 that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) 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 § 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.

## III. Final Action

EPA is approving these revisions to the Virginia SIP to incorporate the following two amendments: (1) An amendment to the list of nonattainment areas in section 9VAC5–20–204, and (2) an amendment to the 1997 NAAQS for ozone, for the purposes of transportation conformity, specified in section 9VAC5–30–55. EPA is publishing this rule without prior proposal because EPA 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 August 12, 2013 without further notice unless EPA receives adverse comment by July 11, 2013. 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.

## IV. 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 August 12, 2013. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action, revising the Virginia SIP to include an amendment to the list of nonattainment areas, and an amendment to the 1997 NAAQS for ozone for the purposes of transportation conformity 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: May 28, 2013.

**W.C. Early,**  
*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart VV—Virginia**

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Sections 5–20–204 and 5–30–55. The revised text reads 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]
*	*	*	*	*
<b>9 VAC 5, Chapter 20 General Provisions</b>				
*	*	*	*	*
<b>Part II Air Quality Programs</b>				
5–20–204 .....	Nonattainment Areas .....	11/21/12	6/11/13 [ <i>Insert page number where the document begins</i> ].	The Northern Virginia 8-hour ozone nonattainment area is added.
*	*	*	*	*
<b>9 VAC 5, Chapter 30 Ambient Air Quality Standards [Part III]</b>				
5–30–55 .....	Ozone (8-hour, 0.08 ppm) .....	11/21/12	6/11/13 [ <i>Insert page number where the document begins</i> ].	The 1997 8-hour ozone NAAQS for purposes of transportation conformity is revoked.
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[FR Doc. 2013-13727 Filed 6-10-13; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 62**

[EPA-R05-OAR-2013-0372; FRL-9821-1]

**Direct Final Approval of Sewage Sludge Incinerators State Plan for Designated Facilities and Pollutants; Indiana****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving Indiana's State Plan to control air pollutants from "Sewage Sludge Incinerators" (SSI). The Indiana Department of Environmental Management (IDEM) submitted the State Plan on February 27, 2013. The State Plan is consistent with the Emission Guidelines (EGs) promulgated by EPA on March 21, 2011. This approval means that EPA finds that the State Plan meets applicable Clean Air Act (Act) requirements for subject SSI units. Once effective, this approval also makes the State Plan Federally enforceable.

**DATES:** This direct final rule will be effective August 12, 2013, unless EPA receives adverse comments by July 11, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2013-0372, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email*: [nash.carlton@epa.gov](mailto:nash.carlton@epa.gov).
3. *Fax*: (312) 692-2543.
4. *Mail*: Carlton T. Nash, Chief, Toxics and Global Atmosphere Section, Air Toxics and Assessment Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: Carlton T. Nash, Chief, Toxics and Global Atmosphere Section, Air Toxics and Assessment Branch (AT-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-2013-0372. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email 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 docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Margaret Sieffert, Environmental Engineer, at (312) 353-1151 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Margaret Sieffert, Environmental Engineer, Environmental Protection Agency, Region 5, 77 West Jackson

Boulevard (AT-18J), Chicago, Illinois 60604, (312) 353-1151, [sieffert.margaret@epa.gov](mailto:sieffert.margaret@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. Background
- II. What Does the State plan contain?
- III. Does the State Plan meet the EPA requirements?
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

**I. Background**

On March 21, 2011, in accordance with sections 111 and 129 of the Act, EPA promulgated SSI EGs and compliance schedules for the control of emissions from existing SSI units. See 76 FR 15404. EPA codified these guidelines at 40 CFR part 60, subpart M. They include a model rule at 40 CFR §§ 60.5085 through 62.5250 that States may use to develop their own plans. Under that rule, EPA has defined an "SSI unit," in part, as any device that combusts sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter. 40 CFR 60.5250

Under section 111(d) of the Act, EPA is required to develop regulations for existing sources of noncriteria pollutants (i.e., a pollutant for which there is no national ambient air quality standard) whenever EPA promulgates a standard for a new source. This would include SSIs. Section 111(d) plans are subject to EPA review and approval.

Under section 129(b)(2) of the Act and the EGs at subpart M, States with SSIs must submit to EPA plans that implement the EGs. The plans must be at least as protective as the EGs, which are not Federally enforceable until EPA approves them (or promulgates a Federal Plan for implementation and enforcement).

40 CFR part 60, subpart B contains general provisions applicable to the adoption and submittal of State Plans for subject facilities under section 111(d), which would include SSIs. On February 27, 2013, Indiana submitted its SSI State Plan, which EPA received on March 1, 2013. This submission followed public hearings for preliminary adoption of the State rule on May 2, 2012 and for final adoption on August 1, 2012. The State adopted the final rule on October 31, 2012 and it became effective on November 1, 2012. The plan includes State rule 326 IAC 11-10, which establishes emission standards for existing SSI.