§ 3.383 Special consideration for paired organs and extremities.

(a) * * *

(3) Hearing impairment in one ear compensable to a degree of 10 percent or more as a result of service-connected disability and hearing impairment as a result of nonservice-connected disability that meets the provisions of § 3.385 in the other ear.

* * * * *

(Authority 38 U.S.C. 501(a), 1160(a)(3))

Cross-References: § 3.385 Disability due to impaired hearing; § 4.85 Evaluation of hearing impairment.

[FR Doc. 04–18105 Filed 8–6–04; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04–OAR–2004–GA–0001–200420c; FRL–7798–7]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the State Implementation Plan; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The EPA published in the **Federal Register** of July 19, 2004 (69 FR 42880), a document concerning the Georgia Post-1999 Rate-of-Progress Plan. A volatile organic compound (VOC) motor vehicle emission budget (MVEB) of 160.68 was inadvertently stated in the July 19, 2004, document. This document corrects that error.

DATES: Effective on August 18, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9036. Mr. Martin can also be reached via electronic mail at *martin.scott@epa.gov*.

SUPPLEMENTARY INFORMATION: The EPA published a document in the **Federal Register** of July 19, 2004, (69 FR 42880) concerning the Georgia Post-1999 Rate-of-Progress Plan. A VOC MVEB of 160.68 was inadvertently stated in the July 19, 2004, document. The last sentence of the second paragraph in the first column of page 42882 should read as follows: ''The new budget for VOCs is 160.80 tons per day (tpd) and 318.24 tpd of NO_X.''

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 27, 2004.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 04–18025 Filed 8–6–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA146–5080a; FRL–7798–6]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revised Major Stationary Source Applicability for Reasonably Available Control Technology in the Northern Virginia Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Commonwealth of Virginia State Implementation Plan (SIP). The revision specifies that the Northern Virginia Ozone Nonattainment Area is now subject to the severe major source permitting requirements and lowers the major stationary source threshold for nitrogen oxide (NO_X) from 50 tons per year to 25 tons per year. EPA is approving this revision to the Commonwealth of Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on October 8, 2004 without further notice, unless EPA receives adverse written comment by September 8, 2004. 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 VA146–5080 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. E-mail: *morris.makeba@epa.gov.*

C. Mail: Makeba Morris, Chief, Air Quality Planning Branch Name, 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. VA146–5080. EPA's policy is that all comments received will be included in the public docket without change, 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 regulations.gov or e-mail. The federal 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 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.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Janice Lewis, (215) 814–2185, or by e-mail at *lewis.janice@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On January 24, 2003 (68 FR 3410), EPA issued a determination that the Metropolitan Washington, DC ozone nonattainment area (DC Area) failed to attain the ozone standard by the statutory date of November 15, 1999, and reclassified the area from ''serious'' to ''severe'' for one-hour ozone. As a

severe nonattainment area, the DC Area must now meet the requirements of section 182(d) of the CAA, and attain the one-hour ozone standard by November 15, 2005. As a result of the reclassification to severe nonattainment, the states that comprise the DC Area (Maryland, Virginia, and the District of Columbia) must implement additional control measures and submit SIP revisions for post-1999 Rate of Progress Plans, Contingency Plans, and the Attainment Demonstration.

On February 4, 2004, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of amendments to the Northern Virginia Ozone Nonattainment Area. This regulation applies only to sources in the Northern Virginia counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford, and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

II. Summary of SIP Revision

On February 4, 2004, the Virginia Department of Environmental Quality (VADEQ) submitted a formal revision to its SIP. The SIP revision consists of amendments to (1) specify that the Northern Virginia Ozone Nonattainment Area is now classified as severe nonattainment and now subject to Virginia's severe ozone nonattainment major source permitting requirements; and (2) lower the major stationary source threshold for NO_X from 50 tons per year to 25 tons per year. Virginia regulation 9 VAC 5–40–310, as revised, specifies that facilities achieve compliance with emission standards as expeditiously as possible but no later than the following dates:

1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.

2. For facilities in Northern Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, November 15, 2005.

This regulation applies to all facilities in the Northern Virginia Emissions Control Area and has the theoretical potential to emit 25 tons per year or greater. The theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to a state and federally enforceable permit conditions which limits production rates or hours of operation.

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 as revision to the Commonwealth of Virginia SIP the amendments to Virginia's air pollution control regulations which reclassify the Northern Virginia Ozone Nonattainment Area from serious to severe and lower the major stationary source threshold for NO_X from 50 tons per year to 25 tons per year. Implementation of this revision will strengthen the Virginia SIP, and result in emission reductions that will assist the DC area in meeting the additional requirements associated with its reclassification as a severe nonattainment area for one-hour ozone.

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 October 8, 2004 without further notice unless EPA receives adverse comment by September 8, 2004. 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 standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 8, 2004. 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 Commonwealth of Virginia's regulations to specify reclassification of the Northern Virginia Ozone Nonattainment Area from serious to severe and lower the major stationary source threshold for NO_X from 50 tons per year to 25 tons per year, 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, Volatile organic compounds.

Dated: July 29, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising entries to 9 VAC 5 Chapter 20, Section 5–40–204 and Chapter 40, Section 5–40–310A.–E. to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (former SIP section)
*	*	*	*	*
Chapter 20 General Provisions				
*	*	*	*	*
Part II—Air Quality Programs				
*	*	*	*	*
5–20–204	Nonattainment areas	6/4/03	8/9/04 FR page citation]	
*	*	*	*	*
Chapter 40—Existing Stationary Sources				
*	*	*	*	*
Part II—Emission Standards				
*	*	*	*	*
Article 4—Emission Standards for General Process Operations (Rule 4–4)				
*	*	*	*	*
5–40–310A.–E	Standard for nitrogen oxides	6/4/03	8/9/04 FR page citation]	
*	*	*	*	*

[FR Doc. 04–18023 Filed 8–6–04; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7798–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Sharon Steel Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is publishing a Direct Final Notice of Deletion of the Sharon Steel Superfund Site (Site), located in Midvale, Utah, from the National Priorities List (NPL).

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B to 40 CFR part 300, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Utah, through the Utah Department of Environmental Quality (UDEQ), based on EPA's determination that all appropriate response actions under CERCLA, other than five-year reviews and operation & maintenance, have been completed at the Site and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective September 24, 2004, unless EPA receives adverse comments on or before September 8, 2004. If EPA receives significant adverse comment(s), EPA will withdraw the Direct Final Notice of Deletion and it will not take effect.

ADDRESSES: Comments should be mailed to: Armando Saenz, Remedial Project Manager (RPM), Mail Code: 8EPR-SR, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Information Repositories: Comprehensive information is available for viewing and copying at the following information repositories for the Site: (1) U.S. EPA Region 8 Superfund Records Center, 999 18th Street, Fifth Floor, Denver, Colorado 80202–2466, Monday through Friday, 8 a.m.–4:30 p.m.; and, (2) Utah Department of Environmental Quality, Division of Environmental Response & Remediation, 168 North 1950 West, Salt Lake City, Utah 84116, Monday through Friday, 8 a.m.–4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Armando Saenz, Remedial Project Manager (RPM), (303) 312–6559, Mail Code: 8EPR–SR, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 8 is publishing this Direct Final Notice of Deletion of the Sharon Steel Superfund Site from the NPL.