DATES: The deviation is effective from 8 a.m. on March 1, 1999 until 4 p.m. on March 12, 1999.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administration, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION: The Brielle Railroad Bridge is owned and operated by New Jersey Transit (NJ Transit. A letter was forwarded to the Coast Guard by NJ Transit requesting a temporary deviation from the normal operation of the bridge to implement extensive structural steel repairs. Presently, the draw is required to open on signal at all times. This requirement is included in the general operating regulations at 33 CFR 117.5. The repairs entail replacement or reinforcement of stringers, floor beams, laterals and bearings. Disassembling parts of the bridge and maintaining the drawbridge span in the closed position is necessary to complete the repairs.

The Coast Guard has informed the known users of the waterway of the bridge closure so that these users can arrange their transits to avoid being negatively impacted by the temporary deviation.

From March 1 until March 12, 1999, this deviation allows the draw of the Brielle Railroad Bridge to remain closed to vessels between the hours of 8 a.m. and 4 p.m., Monday through Friday and open on signal at all other times.

Dated: January 11, 1999.

Roger T. Rufe Jr.,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 99–1471 Filed 1–21–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 061–5039; FRL–6218–5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of Source Specific VOC RACT for Tuscarora Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision requires Tuscarora Incorporated, a major source of volatile organic compounds (VOCs), to implement reasonably available control technology (RACT). The intended effect of this action is to grant approval of a source-specific Consent Agreement submitted by the Commonwealth of Virginia to impose RACT requirements in accordance with the Clean Air Act.

DATES: This final rule is effective on March 23, 1999, without further notice, unless EPA receives adverse comments by February 22, 1999. If adverse comments are received, EPA 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: Written comments should be addressed to David Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Virginia Department of Environmental Quality, P.O. Box 10009, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Janice M. Lewis, (215) 814–2185, at the EPA Region III address above, or via e-mail at lewis.janice@epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

On July 12, 1996, the Commonwealth of Virginia, Department of Environmental Quality (VADEQ) submitted a source-specific VOC RACT determination for Tuscarora Incorporated located in Loudoun County. Loudoun County is in the Northern Virginia portion of the Metropolitan Washington D.C. serious ozone nonattainment area. Within this nonattainment area, all sources of VOC with the potential to emit 50TPY or more are considered major sources and subject to RACT. Because Tuscarora Incorporated is not subject to RACT under Virginia's category-specific regulations developed for industrial categories covered by Control Technique Guidelines (CTGs), it is termed a non-CTG source. Therefore, VADEQ has determined and imposed RACT via a Consent Agreement (Registration No. 71814) to meet the requirements of section 182 of the Clean Air Act.

II. Summary of the SIP Revision

Tuscarora Incorporated, a manufacturer of custom molded, foam plastic packing, structural components and material handling products, had pre-RACT uncontrolled VOC emissions of 105.2 TPY. These emissions emanate from plant operations using the primary resin expandable polystyrene (EPS) and from the occasional use of a polystyrene/polyethylene copolymer known as ARCEL. The VADEQ determined that RACT for the facility is the use of low and reduced VOC content EPS and ARCEL beads. The Consent Agreement (Registration No.71814) requires, among other things, that the EPS monthly weighted average percentage of VOC shall not exceed 4.5% and that the ARCEL monthly weighted average percentage of VOC shall not exceed 8.5%. The use of low and reduced VOC concentrations in EPS and ARCEL beads reduces potential VOC emissions by 31%. The Consent Agreement requires that Tuscarora Incorporated keep a daily detailed material log which documents the percentage of VOC contained in the EPS and ARCEL material processed at the facility. The log must provide sufficient information to determine compliance with the conditions of the Consent Agreement. The log must be available on site and must be current for the most recent five years. Additional details of the RACT determination may be found in VADEQ's submittal and the technical support document (TSD) prepared to support this rulemaking. Copies of these materials are available, upon request, from the EPA Regional office listed in the **ADDRESSES** section of this document.

EPA is approving Consent Agreement No. 71814 issued by VADEQ to Tuscarora Incorporated to impose RACT for VOCS as a revision to the Virginia SIP.

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 does not extend to documents or information that are: (1) 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, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law 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. * * *'' 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, 1997 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.'' Thus, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separated document that will serve as the proposal to approve the SIP revision should adverse or critical comments be filed. This SIP revision will be effective March 23, 1999, without further notice unless the Agency receives adverse comments by February 22, 1999.

If EPA receives such comments, then EPA will publish a document withdrawing the final action and informing the public that the action will not take effect. All public comments received will then be addressed in a subsequent final action based on the proposed rule. EPA will not institute a second comment period on the rule. Parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this SIP revision will be effective on March 23, 1999, and no further action will be taken on the proposed rule.

III. Final Action

EPA is approving the Consent Agreement, Registration Number 71814, submitted by the Commonwealth of Virginia on July 12, 1996 as a SIP revision.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final regulation that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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 the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability, establishing requirements only for Tuscarora Incorporated in Loudoun County, Virginia.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve the VOC RACT determination submitted by VADEQ for Tuscarora Incorporated must be filed in the United States Court of Appeals for the appropriate circuit by March 23, 1999. 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 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, Hydrocarbons, Incorporation by reference, Ozone.

Dated: December 28, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(128) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(128) Revision to the State Implementation Plan submitted on July 12, 1996 by the Virginia Department of Environmental Quality regarding VOC RACT requirements for one VOC source.

(i) Incorporation by reference.

(A) The letter dated July 12, 1996 from the Virginia Department of Environmental Quality submitting one source-specific VOC RACT determination in the form of a Consent Agreement for Tuscarora Incorporated.

(B) Consent Agreement for Tuscarora Incorporated—Sterling, Loudoun County, VA, Consent Agreement, Registration Number 71814, effective on June 5, 1996.

(ii) Additional Material: Remainder of the State submittal pertaining to Tuscarora Incorporated.

[FR Doc. 99–1263 Filed 1–21–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300735A; FRL–6044–2]

RIN 2070–AB78

Revocation of Tolerances and Exemptions from the Requirement of a Tolerance for Canceled Pesticide Active Ingredients; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA published in the **Federal Register** of October 26, 1998, a document announcing the revocation of tolerances for residues of the pesticides listed in the regulatory text. The amendatory language for one of the sections was incorrect. This document corrects that language.

DATES: This correction becomes effective January 25, 1999.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Joseph Nevola, Special Review Branch, (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, Crystal Mall #2,