

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, Sections D., E. (introductory sentence), E.2 (all paragraphs), E.3.b, E.4.a.(1) and (2), E.4.b., E.5. (all paragraphs), and E.7. (all paragraphs)).	Statewide .....	8/25/05	3/3/06 [Insert page number where the document begins].	State effective date is 2/1/00.
Documents Incorporated by Reference (9 VAC 5–20–21, Section B).	Statewide .....	10/25/05	3/3/06 [Insert page number where the document begins].	State effective is 3/9/05; approval is for those provisions of the CFR which implement control programs for air pollutants related to the national ambient air quality standards (NAAQS) and regional haze.

[FR Doc. 06–1943 Filed 3–2–06; 8:45 am]  
 BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R03–OAR–2005–VA–0016; FRL–8040–1]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to the Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision pertains to the amendments of the Commonwealth’s existing ambient air quality standards. EPA is approving this SIP revision in accordance with the Clean Air Act (CAA or Act).

**EFFECTIVE DATE:** This final rule is effective on April 3, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2005–VA–0016. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. 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 [www.regulations.gov](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. 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:** Rose Quinto, (215) 814–2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On January 6, 2006 (71 FR 892), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of the amendments to the Commonwealth’s existing ambient air quality standards, 9 VAC 5 Chapter 30. The formal SIP revision was submitted by the Virginia Department of Environmental Quality (VADEQ) on September 26, 2005.

**II. Summary of SIP Revision**

The Commonwealth’s SIP revision incorporates the 1997 national ambient air quality standards (NAAQS) for the 8-hour ozone and PM<sub>2.5</sub> into the Virginia Regulations for the Control and Abatement of Air Pollution: 9 VAC 5 Chapter 30, Ambient Air Quality Standards. The other SIP revisions incorporated into 9 VAC 5 Chapter 30, are amendments to the ambient air quality standards for sulfur dioxide, carbon monoxide, ozone (1-hour), PM<sub>10</sub>,

nitrogen dioxide, and lead to make the state regulation consistent with 40 CFR part 50.

Other specific requirements of Regulation 9 VAC 5 Chapter 30 and the rationale for EPA’s proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

**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 the amendments to the existing air quality standards, 9 VAC 5 Chapter 30, as a revision to the Virginia SIP submitted on September 26, 2005.

#### 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 requirement, 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 May 2, 2006. 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 pertaining to the amendments of Virginia's ambient air quality standards, 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, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: February 22, 2006.  
**William Early,**  
*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. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Chapter 30 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 30 Ambient Air Quality Standards [Part III]</b>				
5-30-10 .....	General .....	9/8/04	3/3/06 [Insert page number where the document begins].	
5-30-30 .....	Sulfur oxides (sulfur dioxide).	9/8/04	3/3/06 [Insert page number where the document begins].	
5-30-40 .....	Carbon Monoxide .....	9/8/04	3/3/06 [Insert page number where the document begins].	
5-30-50 .....	Ozone (1-hour) .....	9/8/04	3/3/06 [Insert page number where the document begins].	
5-30-55 .....	Ozone (8-hour) .....	9/8/04	3/3/06 [Insert page number where the document begins].	Added Section.
5-30-60 .....	Particulate Matter (PM <sub>10</sub> ).	9/8/04	3/3/06 [Insert page number where the document begins].	
5-30-65 .....	Particulate Matter .....	9/8/04	3/3/06 [Insert page number where the document begins].	Added Section.
5-30-70 .....	Nitrogen dioxide .....	9/8/04	3/3/06 [Insert page number where the document begins].	
5-30-80 .....	Lead .....	9/8/04	3/3/06 [Insert page number where the document begins].	
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 [FR Doc. 06-1944 Filed 3-2-06; 8:45 am]  
**BILLING CODE 6560-50-P**

**DEPARTMENT OF THE INTERIOR**  
**Bureau of Land Management**  
**43 CFR Part 1820**  
**[MT 980-0777-XG]**  
**RIN 1004-AB85**  
**Application Procedures, Execution and Filing of Forms: Correction of State Office Address for Filings and Recordings, Proper Offices for Recording of Mining Claims**  
**AGENCY:** Bureau of Land Management, Interior.  
**ACTION:** Final rule.  
**SUMMARY:** This final rule amends the regulations pertaining to execution and

filing of forms in order to reflect that the Montana State Office of the Bureau of Land Management (BLM) is removing its post office box from the list of State Office addresses and Areas of Jurisdiction included in the Code of Federal Regulations. The public will continue to direct personal, messenger, express mail, direct filing, and other delivery by the United States Postal Services to the same street address as before. This rule will have no impact or cost to the public.  
**DATES:** Effective March 3, 2006.  
**FOR FURTHER INFORMATION CONTACT:** Diane Williams, Regulatory Affairs Group, (202) 452-5030. Persons who use a telecommunications device for the deaf (TDD) may call the Federal