

40 CFR Part 52

[VA059-5016a and VA060-5016a; FRL-5698-1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Standards for Volatile Organic Compound (VOC) Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions pertain to amendments to Virginia's controls on sources of volatile organic compound (VOC) emissions in the Northern Virginia portion of the Metropolitan Washington DC serious ozone nonattainment area and the Richmond moderate ozone nonattainment area. These revisions were submitted to impose additional control measures on sources of VOC emissions to provide emissions reductions which are creditable toward the 15% Rate of Progress Plan (15% ROP Plan) in the Northern Virginia portion of the Metropolitan Washington DC nonattainment area; and to impose additional control measures in the Richmond nonattainment area to reduce VOC emissions. The intended effect of today's action is to approve the submitted amendments to Virginia's rules imposing additional controls on sources of VOCs because they strengthen the Virginia SIP and provide creditable measures upon which Virginia can rely in the 15% ROP Plan for Northern Virginia. Additionally, EPA is taking action in this rulemaking to approve a renumbering of the revised Virginia regulations submitted in these SIP revisions. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: This final rule is effective April 28, 1997, unless within April 11, 1997, adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania

19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 566-2092, or via e-mail at gaffney.kristeen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the CAA requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide VOC emissions by 15 percent from a 1990 baseline. These 15% Rate of Progress (ROP) Plans were to be submitted by November 15, 1993 and the reductions were required to be achieved within 6 years of enactment or November 15, 1996.

This rulemaking addresses two SIP revisions submitted by the Commonwealth of Virginia. The first revision, submitted on April 22, 1996, consists of two new regulations and revisions to previously SIP-approved State regulations to regulate sources of volatile organic compounds (VOCs). The second SIP revision also addressed in this rulemaking, submitted by the Virginia Department of Environmental Quality on April 26, 1996, consists of revisions to Virginia Regulation 120-04-40—"Emission Standards for Open Burning."

The amendments to Virginia's SIP require reasonably available control technology (RACT) determinations on all sources with the theoretical potential to emit 25 tons per year (TPY) or greater of VOCs in the Northern Virginia portion of the Metropolitan Washington DC nonattainment area. This amendment lowers the RACT applicability threshold from the CAA mandated 50 TPY to 25 TPY in the Northern Virginia area. The Commonwealth relies, in part, on the reductions achieved by lowering the RACT applicability threshold to satisfy the Northern Virginia portion of the 15% ROP Plan for the Metropolitan Washington DC nonattainment area.

These SIP revisions impose additional VOC reduction measures on graphic arts processes, lithographic printing processes, and impose restrictions on open burning in both the Northern Virginia portion of the Metropolitan Washington DC nonattainment area and in the Richmond nonattainment area. Elsewhere in today's Federal Register, EPA is proposing conditional interim approval of the 15% ROP Plan for the Northern Virginia portion of the Metropolitan Washington DC nonattainment area. It should be noted that a redesignation request and maintenance plan for the Richmond area are currently pending before EPA. The reductions achieved by these SIP revisions in the Richmond area are part of the maintenance plan portion of the Commonwealth's redesignation request for Richmond. The redesignation request and maintenance plan themselves will be the subject of a separate rulemaking by EPA.

II. Summary of the Virginia Submittals

The April 22, 1996 submittal consists of revisions to Virginia rule 120-1 "General Definitions", rule 120-4-4, "Emission Standards for General Process Operations", rule 120-4-36, "Emission Standards for Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines", and Appendix S ("Air Quality Programs Policies and Procedures"), plus submittal of new rules 120-4-43 "Emission Standards for Sanitary Landfills" and rule 120-4-45, "Emission Standards for Lithographic Printing Processes". Please note that EPA is not taking action on rule 120-4-43 "Emission Standards for Sanitary Landfills," (renumbered to be Article 43, Rule 4-43, 9 VAC 5-40-5800) in this direct final rulemaking. That revision to the Virginia SIP will be the subject of a separate rulemaking. The April 26, 1996 SIP revision consists of revisions to Virginia regulation 120-04-40, "Emission Standards for Open Burning."

The Commonwealth of Virginia is in the process of renumbering its Regulations for the Control and Abatement of Air Pollution. The regulations submitted for revision as part of this review have been renumbered and adopted by the Commonwealth as follows:

Virginia regulation	Former rule number	Revised rule number
General Definitions	VA 120-01-01	9 VAC 5-10-10.
	VA 120-01-02	9 VAC 5-10-20.
General Process Operations	VA 120-04-04	9 VAC 5-40-240-420.
Flexographic and rotogravure printing	VA 120-04-36	9 VAC 5-40-5060-5190.

Virginia regulation	Former rule number	Revised rule number
Open Burning	VA 120-04-40	9 VAC 5-40-5600-5640.
Lithographic Printing	VA 120-04-45	9 VAC 5-40-7800-7940.

While the purpose of this rulemaking is to act upon the SIP revisions as meeting the requirements of the CAA and achieving reductions creditable for the 15% ROP Plan, EPA is also taking action to approve of the renumbering of the above regulations in today's rulemaking and incorporating them in the Virginia SIP. Please note that throughout the rest of this rulemaking, the rules will be referred to by the newly revised numbering scheme.

The SIP revision submitted by the Commonwealth on April 22, 1996, also contains revisions to the requirements for sources of nitrogen oxides (NO_x) in section 9 VAC 5-40-310 (formerly numbered 120-04-0408). Virginia's rule to impose RACT on major stationary NO_x sources in Northern Virginia was originally submitted as a SIP revision to EPA on November 9, 1992. EPA has not yet taken final rulemaking action on this SIP revision. The Commonwealth's April 22, 1996 submittal revises section 9 VAC 5-40-310 from the version of the rule originally submitted to EPA on November 9, 1992. EPA is currently evaluating the combined revisions submitted by the Commonwealth to impose RACT on major stationary sources of NO_x, and shall take action on section 9 VAC 5-40-310 in a separate rulemaking notice.

III. Detailed Description of the SIP Revisions

A. Revisions to 9 VAC 5-10-20 "General Definitions"

Definitions were added for "Federally enforceable", "Implementation plan"; "Potential to Emit" and "State enforceable"; and definitions were revised for "Administrator" and "Volatile organic compound".

B. Revisions to Article 4 "Emission Standards for General Process Operations" (Rule 4-4), Subsection 9-VAC 5-40-300 "Standard for Volatile Organic Compounds"

Subsection 9-VAC 5-40-300 applies to any facility with the theoretical potential to emit 25 tpy or greater of VOCs that is not already subject to a SIP regulation developed pursuant to a federal Control Technique Guideline (CTG) or to any other federally approved SIP RACT rule. The CAA requires RACT for all major stationary sources (defined in serious ozone nonattainment areas as sources emitting 50 tons per year) of

VOCs in nonattainment areas not otherwise covered by a CTG-based SIP regulation. Section 5-40-300 meets this requirement and requires source-specific RACT determinations for all sources meeting the major source definition not already subject to a CTG or source category based RACT limit.

In the April 22, 1996 SIP revision, the applicability threshold has been lowered from the CAA mandated 50 TPY to 25 TPY in the Northern Virginia portion of the Metropolitan Washington DC ozone nonattainment area. The VOC RACT requirement now applies to all facilities that are within a stationary source and have a theoretical potential to emit 25 tpy or greater in the Northern Virginia portion of the nonattainment area. The 15% ROP Plan for the Northern Virginia portion of the Metropolitan Washington D.C. area relies on this control strategy to satisfy the 15% VOC reduction goal. The revised Virginia regulation requires sources with the potential to emit 50 tpy VOCs or greater in Northern Virginia and sources with the potential to emit 100 tpy VOCs or greater in Richmond to meet the CAA-mandated May 31, 1995 RACT compliance deadline. The revised Virginia regulation requires sources with the potential to emit equal to or greater than 25 tpy but less than 50 tpy in Northern Virginia to comply with RACT no later than May 31, 1996.

Article 4 "Emission Standards for General Process Operations" (Rule 4-4), subsection 9 VAC 5-40-420 "Permits" was clarified by adding that the "operation" of a facility is also an activity for which a source may be required to obtain a permit.

C. Article 36 "Emission Standards for Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines" (Rule 4-36)

Rule 4-36 is an existing SIP approved rule that has been revised to lower the applicability from 100 tpy to 25 tpy in the Northern Virginia area, add applicability to surface coatings other than printing inks, add alternative procedures for determining compliance, add compliance requirements for single and multiple printing lines and averaging periods, and clarify certain terms and provisions.

D. Article 45, "Emission Standards for Lithographic Printing Processes" Rule 45, All Sections 9 VAC 5-40-7800 Through 9 VAC 5-40-7940

This is a new regulation being added to Virginia's SIP to control VOC emissions from lithographic printing processes that use a substrate other than a textile. This rule applies to all non-exempted lithographic printing processes that use a substrate other than a textile in the Northern Virginia and Richmond areas with the theoretical potential to emit VOCs equal to or greater than 10 tons per year and 100 tons per year, respectively, for these areas.

E. Revisions to Virginia regulation Part IV, "Emission Standards for Open Burning" Rule 4-40

Effective April 1, 1996 new regulatory provisions prohibit open burning of construction waste, debris waste and demolition waste both on site and in landfills in the Northern Virginia portion of the Metropolitan Washington DC ozone nonattainment area during the peak ozone season, the months of June, July and August. Effective in January 2000, this ban will extend to the Richmond and Hampton Roads ozone nonattainment areas.

F. Revisions to Appendix S "Air Quality Program Policies and Procedures"

Appendix S describes materials available to the public on the Commonwealth's procedures and guidelines for meeting certain VOC regulations. Revisions being approved today include administrative changes to I.D and II.C; and revisions to AQP-3 "Procedures for the Measurement of Capture Efficiency For Determining Compliance With Volatile Organic Compound Emission Standards Covering Surface Coating Operations and Graphic Arts Printing Processes (Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines)".

IV. Final Action

EPA is approving the April 22, 1996 and April 26, 1996 SIP revisions submitted by the Commonwealth of Virginia as revisions to the Virginia SIP except for rule 9 VAC 5-40-5800, pertaining to sanitary landfills, and section 9 VAC 5-40-310, pertaining to

sources of NO_x, for the reasons discussed in this notice. EPA is approving the SIP revisions, as discussed in this notice, because they satisfy CAA requirements and comport with all applicable federal policies and guidance.

EPA is approving these revisions without prior proposal because the Agency views them as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve these SIP revisions should adverse or critical comments be filed. This action will be effective April 28, 1997 unless, by April 11, 1997, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any 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 action will be effective on April 28, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VI. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify

that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act 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, EPA certifies 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 CAA, 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).

C. 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 rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to 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 promulgated does not include a Federal mandate that may result in estimated 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve revisions to the Virginia SIP must be filed in the United States Court of Appeals for the appropriate circuit by May 12, 1997. Filing a petition for reconsideration by the Regional 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 to approve revisions to the Virginia SIP to control VOCs 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, Intergovernmental relations, Ozone.

Dated: February 25, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart VV of chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraphs (c)(113) and (c)(114) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(113) Revisions to the Virginia State Implementation Plan submitted April 22, 1996 by the Virginia Department of Environmental Quality.

(i) Incorporation by reference.

(A) Letter of April 22, 1996 from the Virginia Department of Environmental Quality transmitting revisions to Virginia's State Implementation Plan, pertaining to regulations to control sources of volatile organic compounds (VOC).

(B) Revisions to the following Virginia regulations adopted by the Virginia

State Air Pollution Control Board on December 19, 1995 and effective April 1, 1996:

(1) Added Definitions to 9-VAC 5-10-20 (General Definitions) (Former SIP Section 120-01-02)—“Federally enforceable”, “Implementation plan”, “Potential to Emit”, and “State enforceable”; and revised definitions to 9-VAC 5-10-20 for “Administrator” and “Volatile organic compound”.

(2) Revisions to Article 4, Rule 4-4, “Emission Standards for General Process Operations” (Former SIP Citation—Part IV, Rule 4-4), sections 9 VAC 5-40-300A. (citation only), B., and C. (Former SIP Sections 120-04-0407A., B, and C).

(3) Revisions to Article 4, Rule 4-4, section 9-VAC 5-40-420 (Former SIP Section 120-04-0419)—Introductory paragraph and paragraphs 5-40-420.1 through .5 are revised, while paragraph 5-40-420.6 is added.

(4) Revisions to Article 36, Rule 4-36 “Emission Standards for Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines” (former Part IV, Rule 4-36), sections 9 VAC 5-40-5060, subsections A., B. (citation only), C., and E.1 and .2 (Former SIP sections 120-04-3601.A. through D.1 and D.2); additions of sections 9 VAC 5-40-5060.D and .E.3.

(5) Revisions to Article 36, Rule 4-36, sections 9 VAC 5-40-5070.A., B. (citations only), (Former SIP section 120-04-3602.A., B.); C. (revised definitions for “Flexographic printing”, “High-solids ink or surface coating”, “Low-solvent ink or surface coating”, “Packaging rotogravure printing”, “Printing”, “Publication rotogravure printing”, “Waterborne ink or surface coating” and added definitions for “Compliant ink or surface coating”, “Cleaning solutions”, “Electrostatic duplication”, “Letterpress printing”, “Lithographic printing”, “Non-compliant ink or surface coating”, “Printing Line”, “Surface coating” and “Web”; deletion of “Roll printing”) (Former SIP section 120-04-3602.C.).

(6) Revisions to Article 36, Rule 4-36, Sections 9 VAC 5-40-5080.A. (Former SIP section 120-04-3603.A.); Addition of Section 9 VAC 5-40-5080.B.; Deletion of SIP Sections 120-04-3603.B., C.; Revisions to Sections 9 VAC 5-40-5130.A., B. (Former SIP sections 120-04-3609.A., B.); Addition of Sections 9 VAC 5-40-5130.C., D., E.; Revisions to Section 9 VAC 5-40-5140.A. (Former SIP section 120-04-3610.A.); Addition of Section 9 VAC 5-40-5140.B.; Revisions to Sections 9 VAC 5-40-5190 (Former SIP Section 120-04-3615)—Introductory paragraph and paragraphs 5-40-5190.1 through .5

are revised, while paragraph 5-40-5190.6 is added.

(7) Revised citations of Article 36, Rule 4-36, Sections 9 VAC 5-40-5090, 5-40-5100, 5-40-5150, 5-40-5160, 5-40-5170 and 5-40-5180 (SIP Sections 120-04-3605, 120-04-3606, 120-04-3611, 120-04-3612, 120-04-3613, and 120-04-3614 respectively).

(8) Addition of Article 45, “Emission Standards for Lithographic Printing Processes” (Rule 4-45), Sections 9 VAC 5-40-7800 through 9 VAC 5-40-7850 inclusive; Sections 9 VAC 5-40-7880 through 9 VAC 5-40-7940 inclusive.

(9) Revisions to Appendix S (“Air Quality Program Policies and Procedures”), sections I.D and II.C.

(10) Revisions to AQP-3 “Procedures For the Measurement of Capture Efficiency For Determining Compliance With Volatile Organic Compound Emission Standards Covering Surface Coating Operations and Graphic Arts Printing Processes (Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines)”.

(ii) Additional material.

(A) Remainder of April 22, 1996 Commonwealth submittal pertaining to regulations 4-4, 4-36, 4-45 and Appendix S.

(114) Revisions to the Virginia State Implementation Plan submitted April 26, 1996 by the Virginia Department of Environmental Quality.

(i) Incorporation by reference.

(A) Letter of April 26, 1996 from the Virginia Department of Environmental Quality transmitting revisions to Virginia’s State Implementation Plan.

(B) Revisions to the following Virginia regulation adopted by the Virginia State Air Pollution Control Board on December 19, 1995 and effective April 1, 1996:

(1) Revisions to Article 40, Rule 4-40 “Emission Standards for Open Burning” [former Part IV, Rule 4-40], Sections 9 VAC 5-40-5600.A. (all revisions) and B. (citation only) (Former SIP Sections 12-04-4001.A. and .B.) Addition of Section 9 VAC 5-40-5600.C.

(2) Revisions to Article 40, Rule 4-40, Sections 9 VAC 5-40-5610.A. and B. (citations only) (Former SIP Sections 120-04-4002.A. and B.); revised citation for the definitions “refuse” and “household refuse” in Section 5-40-5610.C. (Former SIP Section 120-04-4002.C.), added definitions in Section 5-40-5610.C for “Clean burning waste”, “Landfill”, “Local landfill”, “Sanitary landfill” and “Special incineration device”.

(3) Addition of Sections 9 VAC 5-40-5620 (Open Burning Prohibitions), 9 VAC 5-40-5630 (Permissible Open

Burning), and 9 VAC 5-40-5640 (Waivers).

(4) Revisions to Appendix D (Forest Management and Agricultural Practices), Sections II (introductory sentence), II.E. and III.F.

(ii) Additional material.

(A) Remainder of April 22, 1996 Commonwealth submittal pertaining to regulation 4-40.

[FR Doc. 97-6079 Filed 3-11-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[VA068-5018a, VA066-5018a; FRL-5688-8]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Virginia; Redesignation to Attainment of the Hampton Roads Ozone Nonattainment Area, Approval of the Maintenance Plan and Mobile Emissions Budget

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a redesignation request and two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. On August 27, 1996, the Commonwealth of Virginia submitted a request to redesignate the Hampton Roads marginal ozone nonattainment area to attainment and a maintenance plan as a SIP revision. This request is based upon three years of complete, quality-assured ambient air monitoring data for the area which demonstrate that the National Ambient Air Quality Standard (NAAQS) for ozone has been attained. On August 29, 1996 Virginia submitted a second SIP revision establishing the mobile emissions budget (also known as a motor vehicle emissions budget) for the Hampton Roads ozone nonattainment area. The SIP revisions establish a maintenance plan for Hampton Roads including contingency measures which provide for continued attainment of the ozone NAAQS until the year 2008; and adjust the motor vehicle emissions budget established in the maintenance plan for Hampton Roads to support the area’s transportation plans in the horizon years 2015 and beyond. Under the Clean Air Act (the Act), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the Act’s other redesignation requirements. The intended effect of this action is to approve the redesignation request, the