jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

The Coast Guard has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order, because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Dept. of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09–226 is added to read as follows:

§ 165.T09–226 Safety Zone; St. Clair River, Port Huron, MI.

(a) *Location.* The safety zone will encompass all waters of the St. Clair River surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°58′ 00″ N, 082°25′ 17″ W (NAD 83).

(b) *Effective date.* This temporary final rule is effective from 7 p.m. until 11:30 p.m. on June 29, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16. Section 165.23 also contains other general requirements.

Dated: June 11, 2003.

P.G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 03–16302 Filed 6–26–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA087–5057a; FRL–7519–2]

Approval and Promulgation of Air Quality Implementation Plans and Approval Under Section 112(l) of the Clean Air Act; Virginia; State Operating Permit Program

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 consists of Virginia's state operating permit program. EPA is approving this revision in accordance with the requirements of sections 110 and 112 of Clean Air Act.

DATES: This rule is effective on August 26, 2003 without further notice, unless EPA receives adverse written comment by July 28, 2003. 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: Comments should be addressed to Mr. David Campbell, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *campbell.dave@epa.gov* or to *http://www.regulations.gov.* To submit comments, please follow the detailed instructions listed in Part VI of the Supplementary Information section. 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: David Campbell, (215) 814–2196, or by e-mail at *campbell.dave@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 13, 1998, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a regulation to implement a state operating permit program that provides a procedural and legal basis for the issuance of federally enforceable operating permits. On October 1, 1999, Virginia also requested approval of its state operating permit program pursuant to section 112(l) of the Clean Air Act.

Federally enforceable state operating permits (FESOPs) may be used to establish emission standards and other source-specific regulatory requirements for stationary sources of air pollution. FESOPs are frequently employed by permitting authorities to accomplish one or more of the following objectives: To designate a source as a synthetic minor source with regard to applicability of federal requirements and standards, such as new source review; to combine a source's requirements under multiple permits into one permit; to implement emissions trading requirements; to cap the emissions of a source contributing to a violation of any air quality standard; or, to establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or state air statutes and regulations.

On February 23, 1993, EPA approved a revision to Virginia's SIP at 40 CFR 52.2420(c)(94) (currently cited as 40 CFR 53.2465(c)(94) pertaining to the Commonwealth's state operating permit program, previously Virginia Regulations for the Control of Air Pollution Part VIII, Section 120–08–04 (currently cited as 9 VAC 5–80–40.) (*See,* 58 FR 10982.) This state operating permit program allowed for the issuance of federally enforceable state operating permits or FESOPs. All sources of air pollution in Virginia with emissions above identified threshold levels were required to obtain a state operating permit. State operating permits under this program were considered federally enforceable if they were subject to the public participation provisions of the program.

In its April 13, 1998 SIP revision request, Virginia is seeking to replace the state operating permit program approved by EPA at 40 CFR 52.2465(c)(94) with a new permit program. In fact, Virginia has repealed 9 VAC 5–80–40. (However, state operating permits issued in accordance with this version of the permit program will remain federally enforceable, if applicable, until the permit expires or Virginia issues a superseding permit.) The new state operating permit program that is the subject of this action is fundamentally very similar to the previous permit program. The main distinction is that for most stationary sources of air pollution the new program is voluntary rather than compulsory.

II. Evaluation of State Operating Permit Program Under Section 110 of the Act

On June 28, 1989, EPA amended the definition of ''federally enforceable'' to clarify that terms and conditions contained in state-issued operating permits are federally enforceable for purposes of limiting a source's maximum potential emission rates or potential-to-emit (PTE). This is true provided that the state's operating permit program is approved into the SIP under section 110 of the Clean Air Act as meeting certain conditions, and provided that the permit conforms to the requirements of the approved program. The conditions for EPA approval discussed in the June 28, 1989 notice establish five criteria for approving a state operating permit program. (*See,* 54 FR 27274–27286.) The following describes each of the criteria for approval of a state operating permit program for the issuance of federally enforceable operating permits for purposes of limiting a source's PTE and how the Virginia's SIP submittal satisfies those criteria.

Criterion 1. The state operating permit program (i.e., the regulations or other administrative framework describing how such permits are issued) must be submitted to and approved by EPA as a SIP revision. On April 13, 1998, the Commonwealth of Virginia submitted an administratively and technically complete SIP revision request for approval of its state operating permit program. The permit program, 9 VAC 5–80–800 through 1040, provides the framework for permit issuance.

Criterion 2. The SIP revision must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revisions of the permit made in accordance with the approved operating permit program) and provide that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not ''federally enforceable'' by EPA. The permit program explicitly requires, at 9 VAC 5–80–850.G, that permits issued under the program ensure that the permittee shall adhere to all terms and conditions contained in its permit. The general provisions of the permit program at 9 VAC 5–80–820.F establish that permits are considered ''federally enforceable'' only if they meet the requirements of the permit program and of EPA's underlying regulations. The list of requirements includes those criteria discussed in this document. Furthermore, the permit program's definitions of ''enforceable as a practical matter'' and ''federally enforceable'' require that permit terms must meet EPA's minimum criteria for federal enforceability, including public participation and practical enforceability requirements.

Criterion 3. The state operating permit program must require that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any applicable limitations and requirements contained in the SIP, or enforceable under the SIP, and that the program

may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise ''federally enforceable'' (e.g. standards established under sections 111 and 112 of the Clean Air Act). The permit program, at 9 VAC 5–80–820.F, requires that all ''federally enforceable'' permits shall contain emission limitations and other requirements that are at least as stringent as any applicable limitation in the SIP. The program also establishes that no permit shall contravene the requirements of any other permit (*e.g.* new source review permit) issued to a particular permittee.

Criterion 4. The limitations, controls, and requirements of the state operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter. The permit program defines ''enforceable as a practical matter'' to mean that a permit condition is permanent, quantifiable, and technically accurate and quantifiable. Also, emission limitations must provide averaging times that are at least monthly or shorter. Sufficient recordkeeping, reporting, and monitoring provisions must also be provided to ensure compliance. Furthermore, the regulation states that a permit condition must be ''enforceable as a practical matter'' in order to be considered ''federally enforceable.''

Criterion 5. The permits are issued subject to public participation. This means that the state agrees, as part of its program, to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be federally enforceable. This process must also provide for an opportunity for public comment on the permit applications prior to the issuance of the final permit. The ''federally enforceable'' permits issued under the permit program are subject to public participation. The permit program's public participation provisions at 9 VAC 5–80–1020 require that for a permit to be federally enforceable the draft permit must be subject to a 30-day public comment period that is adequately publicized. The permit program also provides the opportunity for a public hearing. The general provisions of the permit program at 9 VAC 5–80–820.F require Virginia to provide EPA with a copy of the draft permit and final permit on a timely basis.

Permits that do not undergo the public participation provisions of 9 VAC 5–80–1020 are not considered federally enforceable state operating permits. Such permits are only enforceable by the Commonwealth of Virginia unless action is taken to otherwise confer federal enforceability on an individual permit (*e.g.* approval of a state permit as part of a source-specific SIP revision.) As discussed earlier, Virginia's revised state operating permit program is voluntary. Likewise, the decision to issue an operating permit that is also federally enforceable is a discretionary authority of the Commonwealth of Virginia. Therefore, only a certain number of the permits issued pursuant to Virginia's operating permit program will be ''federally enforceable'.

In conclusion, Virginia's operating permit program clearly satisfies the criteria for approval of a state program for the issuance of federally enforceable operating permits for purposes of limiting a source's PTE and is, therefore, approved as a SIP revision. The criteria discussed above relates to operating permit programs that are to approved as part of the SIP under section 110 of the Clean Air Act. In general, FESOP permit programs approved under a SIP relate only to those pollutants regulated under section 110, that is criteria pollutants. Virginia is also seeking approval of its state operating permit program under section 112 of the Clean Air Act for the purpose of limiting the PTE of hazardous air pollutants. The following is a discussion of EPA's criteria for approval of the permit program under section 112.

III. Evaluation of State Operating Permit Program Under Section 112 of the Act

As part of this action, EPA is approving, pursuant to section 112(l) of the Clean Air Act, the Commonwealth of Virginia's October 1, 1999 request for authority to regulate hazardous air pollutant (HAPs) through the issuance of a federally enforceable state operating permit. Approval pursuant to section 112(l) of the Act would grant the Commonwealth authority to issue federally enforceable permits which limit PTE of HAPs. The EPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989 **Federal Register** notice referenced above, are also appropriate for evaluating and approving operating permit programs under section 112(l). The June 28, 1989 notice does not address HAPs because it was written prior to the 1990 amendments to section 112 of the Act. Since the Commonwealth's operating permits program meets the five program approval criteria for both criteria and hazardous air pollutants, it may be used to limit the potential to emit of both criteria and hazardous air pollutants.

In addition to meeting the criteria discussed above, the Commonwealth's permit program for limiting potential to emit of HAPs must meet the statutory criteria for approval under section 112(l)(5) of the Act. This section allows EPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standard or requirement; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA is approving the Commonwealth's state operating permit program pursuant to section 112(l) of the Act because the program meets the applicable approval criteria in section 112(l)(5) of the Act. Regarding the statutory criteria of section 112(l)(5) of the Act, EPA believes the Commonwealth's state operating permit program contains adequate authority to assure compliance with section 112 requirements since the program does not waive any section 112 requirement(s). Sources would still be required to meet section 112 requirements applicable to non-major sources. Regarding adequate resources, the Commonwealth has included in its state operating permit program provisions for the collection of fees from sources obtaining permits. Furthermore, EPA believes that the Commonwealth's state operating permit program provides for an expeditious schedule for assuring compliance because they allow a source to establish a voluntary limit on potential to emit and avoid being subject to a federal Clean Air Act requirement applicable on a particular date. Nothing in the Commonwealth's operating permit program would allow a source to avoid or delay compliance with a federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline. The Commonwealth's state operating permit program is consistent with the objectives of the section 112 program because its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. The EPA believes that this purpose is consistent with the overall intent of section 112.

IV. Implementation of Virginia's State Operating Permit Program as a Federally-Enforceable State Operating Permit Program

Virginia's operating permit program regulations became effective on April 1, 1998. The Commonwealth has been implementing this program since that date. Upon the effective date of EPA's approval of this program, all permits issued by Virginia pursuant to, and in adherence with, the requirements of 9 VAC 5–80–800 through 1040, in general, and meeting the specific requirements of 9 VAC 5–80–1020, specifically, shall be considered federally enforceable state operating permits. Likewise, any permits issued after the effective date of this action may be considered federally enforceable provided they meet the same conditions.

Each permit that meet the requirements of 9 VAC 5–80–800 through 1040, including 9 VAC 5–80–1020 are to be considered federally enforceable in their entirety. The EPA does not interpret Virginia's regulations to allow for an individual operating permit to have both federal enforceable and state-only enforceable conditions or sections. The EPA does not believe it is the Commonwealth's intention to attempt to implement its program in such a manner.

Since Virginia's operating permit program provides for the issuance of federal enforceable permits and state-only enforceable permits, EPA believes it is important for the Commonwealth to clearly identify the enforceability status of each permit it issues within the body of the permit. Such identification is critical for the proper implementation of this program and other programs such as the Commonwealth's title V operating permit program. When it issues a federally enforceable operating permit, Virginia should also ensure that the proper and appropriate documentation associated with fulfilling the requirements of 9 VAC 5–80–1020 are maintained as an intrinsic part of the permit document.

V. Virginia's Voluntary Environmental Assessment Privilege Law

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, 1997, 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, 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.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its operating permits 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.

VI. Final Action

The EPA is approving the Commonwealth of Virginia's state operating permit program pursuant to sections 110 and 112 of the Clean Air Act.

The 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 and section 112(l) approval if adverse comments are filed. This rule will be effective on August 26, 2003 without further notice unless EPA receives adverse comment by July 28, 2003. 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. The EPA will address all public comments in a subsequent final rule based on the proposed rule. The 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.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number VA087–5057 in the subject line on the first page of your comment. Please ensure that your comments are

submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. E-mail. Comments may be sent by electronic mail (e-mail) to *campbell.dave@epa.gov,* attention VA087–5057. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. Regulations.gov. Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to *http://www.regulations.gov,* then select ''Environmental Protection Agency'' at the top of the page and use the ''go'' button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail. Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

VII. 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 August 26, 2003. 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 Virginia's state operating permit program 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, Reporting and recordkeeping requirements.

Dated: June 17, 2003.

Richard J. Kampf,

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: (a) Adding the entries for 9 VAC 5–20–220, 9 VAC 5–20–230 after the existing entry 9 VAC 5–20–206; and, (b) removing the entry for 9 VAC 5–80–40 and adding in its place entries for 9 VAC 5–80–800 through 9 VAC 5–80–1040. The revisions 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 citation)
* *	*	*	*	*
Chapter 20—General Provisions [Part II]				
* *	*	*	*	*
5–20–220	Shutdown of a stationary source	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–20–230	Certification of documents	April 1, 1998	June 27, 2003 and Federal Register cite.	
* *	*	*	*	*
Chapter 80—Permits for New and Modified Sources [Part VIII]				
Article 5—State Operating Permits				
5–80–800	Applicability	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–810	Definitions	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–820	General	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–830	Applications	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–840	Application information required	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–850	Standards and conditions for granting permits.	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–860	Action on permit application	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–870	Application review and analysis	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–880	Compliance determination and verification by testing.	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–890	Monitoring requirements	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–900	Reporting requirements	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–910	Existence of permit no defense	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–920	Circumvention	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–930	Compliance with local zoning requirements.	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–940	Transfer of permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–950	Termination of permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–960	Changes to permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–970	Administrative permit amendments	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–980	Minor permit amendments	April 1, 1998	June 27, 2003 and Federal Register cite.	

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (Former SIP citation)
5–80–990	Significant permit amendments	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1000	Reopening for cause	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1010	Enforcement	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1020	Public participation	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1030	General permits	April 1, 1998	June 27, 2003 and Federal Register cite.	
5–80–1040	Review and evaluation of article	April 1, 1998	June 27, 2003 and Federal Register cite.	
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[FR Doc. 03–16233 Filed 6–26–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN 140–4; FRL–7519–7]

Conditional Approval of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to a final rule.

SUMMARY: This document contains corrections to the codification of a final rule which was published on March 3, 2003 (68 FR 9892). The rule being corrected conditionally approved revisions to Indiana's Prevention of Significant Deterioration (PSD) State Implementation Plan (SIP).

EFFECTIVE DATE: This correction is effective June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Julie Capasso, Environmental Scientist, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, telephone (312) 886–1426.

SUPPLEMENTARY INFORMATION: On March 3, 2003 (68 FR 9892), EPA conditionally approved revisions to Indiana's PSD SIP which were submitted to EPA as a requested SIP revision on February 1, 2002. At that time, EPA incorrectly stated the effective date of the State rules incorporated by reference in 40 CFR 52.770(c)(147).

Need for Correction

As published, the final rule contains an incorrect citation of the effective date of some of the rules incorporated by reference. This error was published in the third column on page 9895. Unless this error is corrected, persons seeking a copy of the rules incorrectly cited in the codification of the final rule will be unable to locate the correct document. EPA regrets any inconvenience that this incorrect citation has caused.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 18, 2003.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I of title 40 of the Code of Federal Regulations 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.*

■ 2. Section 52.770 is amended by revising paragraph (c)(147) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(147) On February 1, 2002, Indiana submitted its Prevention of Significant Deterioration rules as a revision to the State implementation plan.

(i) Incorporation by reference.

(A) Title 326 of the Indiana Administrative Code, Rules 2–2–1, 2–2–2, 2–2–3, 2–2–4, 2–2–5, 2–2–6, 2–2–7, 2–2–9, 2–2–12, and 2–2–14. Filed with the Secretary of State on December 20, 2001, effective January 19, 2002.

(B) Title 326 of the Indiana Administrative Code, Rules 2–2–8, 2–2–10, 2–2–11, 2–2–13, 2–2–15 and 2–2–16. Filed with the Secretary of State on March 23, 2001, effective April 22, 2001.

(C) Title 326 of the Indiana Administrative Code, Rules 2–1.1–6 and 2–1.1–8. Filed with the Secretary of State on November 25, 1998, effective December 25, 1998. Errata filed with the Secretary of State on May 12, 1999, effective June 26, 1999.

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[FR Doc. 03–16327 Filed 6–26–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[OAR–2002–0047, FRL–7520–3]

Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because we received adverse comment, we are withdrawing the direct final rule to amend the Federal Operating Permits Program fee payment deadlines for California agricultural sources. We published the direct final rule on May 13, 2003. We stated in that **Federal Register** document that if we received adverse comment by June 12,