

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-127819-06]

RIN 154-BF79

**TIPRA Amendments to Section 199****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Change of location of public hearing.

**SUMMARY:** On October 19, 2006, on page 61692 of the **Federal Register** (71 FR 61692), a notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing announced that a public hearing concerning the application of section 199, which provides a deduction for income attributable to domestic production activities will be held February 5, 2007 in the auditorium of the New Carrollton Federal Building, 5000 Ellin Road, Lanham, MD 20706. The location of the public hearing has changed.

**ADDRESSES:** The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Kelly Banks, (202) 622-0392 (not a toll-free number).

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations, Associate Chief Counsel, Legal Processing Division, (Procedure and Administration).*

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-140379-02; REG-142599-02]

RIN 1545-BC07; 1545-BB23

**General Allocation and Accounting Regulations Under Section 141****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Change of location of public hearing.

**SUMMARY:** On September 26, 2006, on page 56072 of the **Federal Register** (71 FR 56072), a notice of proposed

rulemaking and notice of public hearing announced that a public hearing relating to allocation and accounting of tax-exempt bonds proceeds for purposes of the private activity bond restrictions will be held January 11, 2007, in the auditorium of the New Carrollton Federal Building, 5000 Ellin Road, Lanham, MD 20706. The location of the public hearing has changed.

**ADDRESSES:** The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Kelly Banks, (202) 622-0392 (not a toll-free number).

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations, Associate Chief Counsel, Legal Processing Division (Procedure and Administration).*

[FR Doc. E6-22023 Filed 12-22-06; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA R03-OAR-2006-0921; FRL-8261-2]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to VOC and NO<sub>x</sub> Emission Control Areas and VOC Control Regulations****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions amend the existing volatile organic compound (VOC) and nitrogen oxide (NO<sub>x</sub>) emissions control areas, and amend certain VOC and NO<sub>x</sub> regulations in order to manage the extension of applicability of these provisions to the amended VOC and NO<sub>x</sub> emission control areas. This action is being taken under the Clean Air Act (CAA or the Act).

**DATES:** Written comments must be received on or before January 25, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2006-0921 by one of the following methods:

A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

B. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

C. Mail: EPA-R03-OAR-2006-0921, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2006-0921. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., 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 at [www.regulations.gov](http://www.regulations.gov) or in hard copy 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:**

Ellen Wentworth, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour standard. On April 30, 2004, (69 FR 23858), the EPA designated and classified areas for the 8-hour ozone national ambient air quality standard (NAAQS). For most areas, these designations became effective June 15, 2004. EPA designated, as nonattainment, any area violating the 8-hour ozone NAAQS based on the air quality for the three years of 2001-2003. These were the most recent three years of data at the time EPA designated 8-hour areas. The 8-hour standard replaced the 1-hour standard on June 15, 2005 (69 FR 23996).

Currently, Virginia's Chapter 40 of the Regulations for the Control and Abatement of Air Pollution contains a number of rules used to enforce control measures designed to attain and maintain the ozone air quality standard. The geographic applicability of these rules is defined by establishing VOC and NO<sub>x</sub> emissions control areas in a list located in 9 VAC 5-20-206. The Commonwealth of Virginia's regulations establish VOC and NO<sub>x</sub> emissions control areas to provide the legal mechanism to define the geographic areas in which Virginia implements control measures to attain and maintain the air quality standards for ozone. The emissions control areas may or may not coincide with the nonattainment areas found in 9 VAC 5-20-204, depending upon the necessity of the planning requirements. In order to implement control measures to attain and maintain the air quality standards for ozone, Virginia has proposed to expand the VOC and NO<sub>x</sub> emissions control areas (9 VAC 5-20-206) and extend the geographic applicability of the VOC and NO<sub>x</sub> regulatory rules in Chapter 40 of the regulations into the new 8-hour nonattainment areas. Accordingly, 9 VAC 5-20-206 is being amended to include those counties and cities in the corresponding new 8-hour ozone nonattainment areas that were not previously listed in 9 VAC 5-20-206. Most of these Chapter 40 regulations

will automatically apply within all of the new VOC emissions control areas. Others have provisions that apply only to certain existing VOC and NO<sub>x</sub> emission control areas. Each of these rules is being amended individually in order to manage the extension of applicability of these provisions to the additional VOC and NO<sub>x</sub> emission control areas with coherence and consistency.

**II. Summary of SIP Revisions**

On September 12, 2006, the Commonwealth of Virginia submitted a revision to its SIP. This revision amends 9 VAC 5-20-206 of Chapter 20 of Virginia's Regulations for the Control and Abatement of Air Pollution to establish a new Fredericksburg NO<sub>x</sub> and VOC Emissions Control Area, consisting of Spotsylvania County, and Fredericksburg City; to expand the Richmond VOC and NO<sub>x</sub> Emissions Control Area to include Prince George County and Petersburg City; and to expand the Hampton Roads VOC and NO<sub>x</sub> Emissions Control Area to include Gloucester County and Isle of Wight County. These amendments are necessary to include those counties and cities in the corresponding new 8-hour ozone nonattainment areas that were not previously listed in 9 VAC 5-20-206, and to implement VOC control and contingency measures within the 8-hour ozone nonattainment areas and 1-hour ozone maintenance areas.

On October 2, 2006, the Commonwealth of Virginia submitted a revision to its SIP. This revision consists of amendments to regulations found in Chapter 40 of Virginia's Regulations for the Control and Abatement of Air Pollution that implement non-CTG and CTG VOC reasonably available control technology (RACT) control requirements within those areas that are designated as VOC emissions control areas in 9 VAC 5-20-206.

As stated previously, most of the Chapter 40 rules will automatically be extended into the new 8-hour nonattainment areas automatically when the VOC emissions control areas in 9 VAC 5-20-206 are amended. Some Chapter 40 rules have provisions that apply only to certain existing VOC and NO<sub>x</sub> emissions control areas. In this revision, Articles 4, 36, 37, and 53 are being amended individually in order to manage the extension of applicability of these provisions to the additional VOC and NO<sub>x</sub> emission control areas.

Article 4, Emission Standards for General Process Operations, is being amended to ensure that VOC RACT is not automatically required from large VOC sources in the new areas that were

included in the Richmond VOC Emissions Control Area (County of Prince George and City of Petersburg). Article 4 currently applies in the Northern Virginia and Richmond Emissions Control Areas designated in 9 VAC 5-20-206. With the addition of Prince George County and Petersburg to the Richmond VOC Emissions Control Area, VOC RACT would normally automatically apply to all large existing sources in the County of Prince George and the City of Petersburg. However, the Richmond 8-hour ozone nonattainment area was reclassified from a moderate 8-hour ozone nonattainment area to a marginal 8-hour ozone nonattainment area (69 FR 56697, September 22, 2004). EPA only requires existing sources in nonattainment areas that are classified as moderate and above to implement VOC RACT.

Article 36, Packaging and Publishing Rotogravure Printing, and Flexographic Printing, is being amended to provide exemptions for small facilities in all VOC emissions control areas, other than the Northern Virginia VOC Emissions Control Area, whose potential to emit is less than 100 tons per year.

Article 37, Storage or Transfer of Petroleum Liquids, is being amended to ensure that Stage II Vapor Recovery is not required at gasoline dispensing stations in the new areas within the expanded Richmond VOC Emissions Control Area—Petersburg City, and Prince George County, since these areas were not part of the 1-hour ozone moderate nonattainment area. This revision also removes applicability redundancies resulting from this action and a previous amendment that added the Western Virginia VOC Emissions Control Area (Botetourt County, Frederick County, and Winchester City, 70 FR 21625, April 27, 2005).

Article 53, Emission Standards for Lithographic Printing Processes, is being amended to apply in all VOC emissions control areas. The amendment also exempts from the provisions of this Article, all facilities in all VOC emissions control areas, other than the Northern Virginia VOC Emissions Control Area, whose potential to emit is less than 100 tons per year of VOCs. When EPA approved the lithographic printing processes regulation into the Virginia SIP (62 FR 11334, March 12, 1997), it was codified under Article 45. In this action, EPA is also recodifying the lithographic printing processes regulation (9 VAC 5-40-7800-7940, inclusive) from Article 45 to Article 53 to be consistent with Virginia's regulations.

### 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. Proposed Action

EPA is proposing to approve the Commonwealth of Virginia’s SIP revisions amending existing regulations pertaining to emissions control areas, and the accompanying rule regulations, which were submitted on September 12 and October 2, 2006. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by

state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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), because it merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order

12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This proposed rule, pertaining to amendments to existing regulation provisions concerning Virginia's emissions control areas, and accompanying regulatory changes, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 14, 2006

**William T. Wisniewski,**

*Acting Regional Administrator, Region III.*

[FR Doc. E6-22058 Filed 12-22-06; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60, 62, 72, and 78

[EPA-HQ-OAR-2006-0905; FRL-8260-9]

#### Public Hearing for Revisions of Standards of Performance for New and Existing Stationary Sources; Electric Utility Steam Generating Units; Federal Plan Requirements for Clean Air Mercury Rule; and Revisions of Acid Rain Program Rules

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

**ACTION:** Announcement of Public Hearing.

**SUMMARY:** The EPA is announcing a public hearing for the proposed "Revisions of Standards of Performance for New and Existing Stationary Sources; Electric Utility Steam Generating Units; Federal Plan Requirements for Clean Air Mercury Rule; and Revisions of Acid Rain Program Rules". For convenience, we refer to the proposal as the Clean Air Mercury Rule (CAMR) Federal Plan. The hearing will be held on January 18, 2007 in Washington, DC.

**DATES:** The public hearing for the proposal for the CAMR Federal Plan will be held on January 18, 2007. Please refer to the **SUPPLEMENTARY INFORMATION**

of this notice, and the public hearing information given in the proposal, for additional information on the public hearing.

**ADDRESSES:** The hearing will be held at the EPA East Building, 1201 Constitution Avenue, NW., Washington, DC, 20004. The hearing will take place in room 1153. Written comments on the proposal may also be submitted to EPA electronically, by mail, by facsimile, or through hand delivery/courier. Please refer to the proposal for the addresses and detailed instructions for submitting comments. Documents relevant to this action are available for public inspection at the EPA Docket Center, located at 1301 Constitution Avenue, NW., Room 3334, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Documents are also available through EPA's electronic Docket System at [www.regulations.gov](http://www.regulations.gov). The EPA website for CAMR and the federal plan Proposal, which will include information about the public hearing, is at [www.epa.gov/CAMR](http://www.epa.gov/CAMR).

**FOR FURTHER INFORMATION CONTACT:** If you would like to speak at the public hearing or have questions concerning it, please contact Doran Stegura at (434) 979-3700 (ext. 161) and at the address given below under **SUPPLEMENTARY INFORMATION**. Questions concerning the proposed CAMR federal plan should be addressed to Meg Victor, U.S. EPA, Office of Air and Radiation, Clean Air Markets Division, Washington, DC, 20005, (202) 343-9193.

**SUPPLEMENTARY INFORMATION:** On May 18, 2005 EPA finalized CAMR and established standards of performance for mercury (Hg) for new and existing coal-fired electric utility steam generating units (utility units or EGUs). On December 8, 2006 a CAMR Federal Plan Proposal was signed by the EPA Administrator. CAA section 111(d)(2) grants the Administrator the authority to prescribe a plan for a State in cases where the State fails to submit a satisfactory plan as he would have under section 110(c) of the CAA in the case of a State's failure to submit an implementation plan. Section 60.27 of 40 CFR part 60 directs the Administrator to promptly prepare and publish proposed regulations for a State if the State fails to submit a plan by the prescribed deadline or the Administrator disapproves the State's submitted plan and to promulgate those regulations by the date 6 months after the date required for plan submission. The CAMR Federal Plan Proposal indicated that a public hearing for the

CAMR Federal Plan would be held, and the date, time, and location of the event would be announced in a separate notice. This action constitutes that notice. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning issues raised in the proposed CAMR Federal Plan. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. The public hearing for the proposal for the CAMR Federal Plan will be held on January 18, 2007, in Washington, DC. The hearing will begin at 1 p.m. and end at 5 p.m. The meeting facility address is provided above under **ADDRESSES**. The hearing may end early if all of the registered speakers have presented. If you would like to present oral testimony at the hearing, please notify Doran Stegura, Perrin Quarles Associates, 675 Peter Jefferson Parkway, Suite 200, Charlottesville, VA 22911, telephone (434) 979-3700 (ext. 161), [doranstegura@pqa.com](mailto:doranstegura@pqa.com). She will provide you with a specific time to speak. Oral testimony will be limited to 5 minutes for each commenter, after which there will be an opportunity for the panel to ask clarifying questions. EPA will be able to provide equipment for commenters to show overhead slides or make computerized slide presentations only if we receive requests in advance. Commenters should notify Doran Stegura if they will need specific equipment. The EPA encourages commenters to provide written versions of their oral testimonies either electronically on computer disk or CD ROM or in paper copy. The hearing schedule, including the speaker list, will be posted on EPA's Web pages for the Proposal at <http://www.epa.gov/CAMR>. A verbatim transcript of the hearing and written statements will be included in the rulemaking docket.

#### How Can I Obtain Copies of This Document and Other Related Information?

This notice and the CAMR Federal Plan proposal are available on EPA's web site for the CAMR rulemaking at <http://www.epa.gov/CAMR> and are published in the **Federal Register**. The EPA has established the official public docket for the CAMR Federal Plan under Docket ID No. OAR-2006-0905. Please refer to the proposal for detailed information on accessing information related to the proposal.