The Office is removing the position/title and address fields for the primary and secondary account contacts from the system; the Office has determined that such information is not necessary for Office communications. The organization field and fields relating to the secondary contact will remain, but will be made optional, as certain service providers might find it useful to include this information. Nonetheless, the Office still strongly encourages all service providers to provide a secondary contact as a backup to best ensure that important communications from the Office—especially renewal reminders—reach the appropriate person.

Because the current regulation only requires this information for administrative purposes, this final rule is a non-substantive, procedural change not ''alter[ing] the rights or interests of parties,'' and thus is not subject to the notice and comment requirements of the Administrative Procedure Act.[3] Furthermore, the Office finds good cause that permitting notice and comment would be ''contrary to the public interest'' in this instance.[4] Because this final rule will make it even easier and faster for service providers to register an account with the new system, and should reduce any confusion or burden on smaller service providers, it is in the public's best interest that it take effect without delay. For these same reasons, the Office is making this final rule effective on May 10, 2017, when updates to the electronic system will be made to implement it.[5]

List of Subjects in 37 CFR Parts 201 and 202

Copyright.

Final Regulations

For the reasons set forth above, the Copyright Office amends 37 CFR part 201 as follows:

[3] *See Nat'l Mining Ass'n* v. *McCarthy,* 758 F.3d 243, 250 (D.C. Cir. 2014) (''The critical feature of a procedural rule is that it covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency.'') (internal quotation marks omitted); 5 U.S.C. 553(b) (notice and comment not required for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'').

[4] *See* 5 U.S.C. 553(b) (notice and comment not required ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest'').

[5] *See id.* § 553(d) (''The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—(1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.'').

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.1 [Amended]

■ 2. Amend § 201.1 by removing paragraph (c)(3) and redesignating paragraphs (c)(4) through (8) as paragraphs (c)(3) through (7), respectively.

§ 201.2 [Amended]

■ 3. Amend § 201.38 as follows:

■ a. In paragraph (b)(1)(ii), remove ''an email address and/or physical mail address'' and add in its place ''an email address''; and

■ b. Revise paragraph (c)(1)(i).

The revision reads as follows:

§ 201.38 Designation of agent to receive notification of claimed infringement.

* * * * *

(c) * * *

(1) * * *

(i) The first name, last name, telephone number, and email address of a representative of the service provider who will serve as the primary point of contact for communications with the Office.

* * * * *

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 4. The authority citation for part 202 continues to read as follows:

Authority 17 U.S.C. 408(f), 702

§ 202.5 [Amended]

■ 4. Amend § 202.5 in paragraph (d) by removing ''201.1(c)(4)'' and adding in its place ''201.1(c)''.

Dated: April 19, 2017.

Karyn Temple Claggett,

Acting Register of Copyrights and Director of the U.S. Copyright Office.

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2017–09395 Filed 5–9–17; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

State and Local Assistance

CFR Correction

■ In Title 40 of the Code of Federal Regulations, parts 1 to 49, revised as of July 1, 2016, on page 517, in § 35.6280, paragraph (a)(2) is revised to read as follows:

§ 35.6280 Payments.

(a) * * *

(2) *Interest.* The interest a recipient earns on an advance of EPA funds is subject to the requirements of 2 CFR 200.305.

* * * * *

[FR Doc. 2017–09486 Filed 5–9–17; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0308; FRL–9961–86–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Removal of Stage II Gasoline Vapor Recovery Requirements for Gasoline Dispensing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Virginia. The revision includes regulatory amendments that allow gasoline dispensing facilities (GDFs) located in Northern Virginia, Fredericksburg, and Richmond that are currently required to install and operate vapor recovery equipment on gasoline dispensers (otherwise referred to as Stage II vapor recovery, or simply as Stage II) to decommission that equipment by January 2017. In prior rulemaking actions, EPA already approved Virginia's demonstrations that decommissioning Stage II is consistent with the Clean Air Act (CAA) and EPA guidance. The intended effect of this action is to approve Virginia's revised petroleum transfer and storage regulation to allow for decommissioning of Stage II equipment.

DATES: This final rule is effective on June 9, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0308. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by email at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 21, 2016, EPA published a notice of direct final rulemaking (81 FR 72724) and an accompanying proposed rulemaking (NPR) (81 FR 72757) for the Commonwealth of Virginia. Therein, EPA proposed approval of Virginia's revised 9 VAC 5, Chapter 40, Rule 4–37 (Rule 4–37), *Emission Standards for Petroleum Liquid Storage and Transfer Operations.* These regulations had been amended to allow for the decommissioning of Stage II vapor recovery systems at GDFs in areas of the Commonwealth subject to Stage II under Virginia's SIP. The SIP revision was submitted by the Virginia Department of Environmental Quality (VA DEQ) on October 15, 2015.

After receiving adverse comments during the public comment period on its proposed action, EPA withdrew the October 21, 2016 direct final rule in a notice published in the December 9, 2016 (81 FR 89007) **Federal Register**. As indicated in the October 21, 2016 direct final rule, EPA's separate proposed rule published at the same time serves as the proposed rulemaking.

I. Background

Stage II vapor recovery is a means of capturing volatile organic compounds (VOCs) emitted as vapors displaced from a vehicle's gas tank during refueling operations, via vapor controls equipped on a gasoline pump at a GDF. Stage II vapor recovery uses special refueling nozzles and coaxial hoses on the gasoline dispenser to capture these vapors that might otherwise be emitted to the atmosphere during vehicle fueling. These gasoline vapors contain air emissions and serve as precursors to the formation of ground-level ozone—an ambient air pollutant regulated under the CAA. Under section 182(b)(3) of the CAA, areas classified as moderate or worse ozone nonattainment were required to adopt a Stage II vapor recovery program. Areas in the Ozone Transport Region (OTR) were required under section 184(a) and (b)(2) to adopt Stage II, or a comparable measure that could achieve similar emission reductions. Virginia currently has three SIP-approved Stage II programs in the Richmond, Fredericksburg, and the Virginia portion of the Washington, DC areas.

The Richmond Stage II program was instituted as a result of the area being designated nonattainment under the 1-hour ozone National Ambient Air Quality Standards (NAAQS) by the CAA of 1990. The Richmond Stage II area (the Richmond Area) has since been redesignated as attainment for both the 1-hour ozone NAAQS (November 17, 1997; 62 FR 61237) and for the 1997 8-hour ozone NAAQS (June 1, 2007; 72 FR 30485). However, Virginia's SIP-approved maintenance plans for the 1-hour and 1997 8-hour ozone NAAQS relied upon emissions reductions from Stage II as a means to ensure continued maintenance of the ozone NAAQS. Although the 1-hour ozone NAAQS was revoked on June 15, 2005, EPA's implementation rule for the 1997 ozone NAAQS retained Stage II as a required measure to prevent backsliding under the NAAQS.

The Virginia portion of the Washington, DC-MD-VA ozone nonattainment area (hereafter referred to as the Washington Area) was subject to Stage II not only because of its designation as nonattainment for the ozone NAAQS, but also because this area lies in a CAA-established OTR. The area was designated serious nonattainment under the 1-hour ozone NAAQS. The Washington Area was later designated moderate nonattainment under the 1997 8-hour ozone NAAQS, as was the neighboring Fredericksburg ozone nonattainment area (referred to herein as Fredericksburg Area). On November 13, 2002, EPA reclassified the Virginia portion of the Washington, DC-MD-VA area as severe nonattainment under the 1-hour ozone NAAQS. 67 FR 68805. Virginia subsequently submitted and EPA approved attainment plans for the 1-hour and 1997 8-hour NAAQS for the Washington Area, and EPA also approved a redesignation and maintenance plan for the Fredericksburg Area. Although the 1-hour ozone NAAQS was revoked effective June 2005, EPA's implementation rule for the 1997 ozone NAAQS retained Stage II-related requirements under CAA section 182(b)(3) for certain areas. Stage II continued to apply in the Washington, DC nonattainment area as an anti-backsliding measure under the implementation rules for the 1997 and 2008 ozone NAAQS. The 2008 ozone implementation rule similarly required that Stage II remain in the Fredericksburg Area as a maintenance measure pending EPA determination that onboard refueling vapor recovery (ORVR) was in widespread use and Virginia could demonstrate that Stage II was no longer a necessary component of its air quality plans.

Virginia adopted Stage II regulations in the November 2, 1992 edition of the Virginia Register of Regulations (Vol 9, Issue 3), effective January 1, 1993. Virginia submitted its Stage II regulation to EPA as a SIP revision on November 5, 1992. EPA approved Virginia's Stage II SIP revision on June 23, 1993 (59 FR 32353).

ORVR is an emissions control system equipped on new, gasoline-powered vehicles (beginning with model year 1998 vehicles) for the purpose of capturing refueling gasoline vapors before they escape the vehicle gas tank and to store them in an underhood canister for later engine combustion. Section 202(a)(6) of the CAA directed that Stage II requirements under section 182(b)(3) would no longer apply to moderate ozone nonattainment areas upon promulgation of standards for ORVR systems as part of the emission control system on newly manufactured vehicles. Section 202(a)(6) further provides that EPA may, by rule, waive the section 182(b)(3) Stage II requirements for ozone nonattainment areas designated serious or worse upon EPA's determination that ORVR technology is in ''widespread use.'' EPA issued its widespread use determination on May 16, 2012 (77 FR 28772), indicating that ORVR was in widespread use throughout the U.S. vehicle fleet, and that at that time ORVR vehicles were essentially equal to and would soon surpass the emissions reductions achieved by Stage II alone.

Virginia has examined whether Stage II vapor recovery continues to be necessary for ozone control purposes, given the prevalence of ORVR-equipped gasoline-powered vehicles and the redundancy between ORVR and Stage II systems in reducing gasoline tank displacement emissions associated with refueling. Additionally, Virginia analyzed the interference effect between certain Stage II systems and ORVR systems, which can result in VOC emissions being greater where ORVR and certain Stage II systems are simultaneously used than they would be

if only Stage II or ORVR were used. From these analyses, Virginia determined that Stage II vapor recovery is no longer necessary as a control measure to address ambient ozone in the Washington, Fredericksburg, and Richmond areas.

On November 12, 2013 and March 18, 2014, Virginia submitted SIP revisions to EPA that evaluated the emissions impacts to each of the affected Virginia Stage II areas associated with removal of the program. Those SIP revisions amended the ozone maintenance plan for the Richmond Area and the attainment plan for the Washington Area to demonstrate that removal of the Stage II programs would not interfere with those areas' ability to attain and maintain any NAAQS. On May 26, 2015 (80 FR 29959), EPA approved the Commonwealth's March 18, 2014 SIP revision amending the approved ozone attainment plan for the Virginia portion of Washington Area and the approved ozone maintenance plan for the Fredericksburg Area to remove the Stage II program. On August 11, 2014, EPA approved Virginia's November 12, 2013 SIP revision amending the approved ozone maintenance plan SIP for the Richmond Area to remove the Stage II program. 79 FR 46711. None of these approvals were challenged in court by any objecting party.

II. Summary of SIP Revision and EPA Analysis

On October 15, 2015, the Commonwealth of Virginia submitted a formal revision to remove the requirements for Stage II vapor recovery controls in Virginia ozone nonattainment areas from the approved Virginia SIP (Revision C14). This October 2015 SIP revision contains the amended Stage II vapor recovery regulatory provisions of Virginia Rule 4–37, entitled ''Emission Standards for Volatile Organic Compounds from Petroleum Liquid Storage and Transfer Operations.'' The October 2015 SIP revision includes Virginia's regulatory amendments listed at 9VAC5–20 and 9VAC5–40 that were adopted by Virginia in June of 2014, and published in the Virginia Register of Regulations on June 15, 2015 which removed Stage II vapor recovery requirements from Virginia law governing petroleum liquid storage and transfer operations. The purpose of this SIP revision is to remove Stage II vapor recovery requirements from the Commonwealth's SIP. Under Virginia's amended Rule 4–37, gasoline stations in the Washington and Fredericksburg Areas were no longer required to employ Stage II systems as of January 2014, and Richmond Area stations were no longer required to employ Stage II vapor recovery systems as of January 2017. Facilities electing to decommission Stage II are now required under Rule 4–37 to meet established decommissioning procedures, and facilities electing to continue to operate Stage II are required to continue to operate properly and maintain their Stage II systems.

As described in the Background section of this action, EPA already approved Virginia's SIP revisions submitted on November 12, 2013 and March 18, 2014 demonstrating that removal of Stage II as a control measure from the SIP will not interfere with the Washington, Fredericksburg, and Richmond Areas' ability to attain and maintain any applicable NAAQS. VA DEQ examined whether Stage II is necessary as an ozone control measure and determined this program is no longer beneficial to air quality in the Commonwealth, given the widespread use of ORVR equipment in new vehicles manufactured since 1998 and the inherent redundancies between Stage II vapor recovery equipment and vehicle-based ORVR systems, and in light of the incompatibilities between some Stage II vapor recovery equipment and vehicle-based, ORVR systems.

EPA has evaluated the regulatory amendments adopted by Virginia to its Rule 4–37 to rescind Stage II vapor recovery requirements for new and existing stations, to adopt decommissioning procedures and requirements for GDFs electing to no longer operate existing Stage II systems, and to require the continued operation and maintenance of Stage II equipment for stations that elect to continue participation in the program. Virginia's regulatory changes meet EPA guidance and the related requirements of sections 182 and 202 of the CAA with respect to the applicability of Stage II requirements after EPA's issuance of its ORVR widespread use determination in 2012, as described in the Background section of this document. Virginia has properly analyzed the impact of removal of the Stage II program in adherence with EPA's ''Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures,'' dated August 7, 2012 (EPA–457/B–12–001), including applicability of Stage II or comparable measures in the OTR, per section 184 of the CAA. As previously found by EPA, Virginia has demonstrated that removal of the Stage II requirement does not interfere with any affected area's ability to attain or maintain any NAAQS, or with any other applicable requirement of the CAA, under section 110(l) of the CAA.

For further information on Virginia's analysis of the impacts of removal of the Stage II programs in the Washington and Fredericksburg Areas, please refer to EPA's May 26, 2015 approval of the SIP demonstration applicable to those areas. *See* 80 FR 29959. For further information with respect to Virginia's analysis of the removal of Stage II in the Richmond Area, please refer to EPA's August 11, 2014 approval of the Commonwealth's demonstration applicable to Richmond. *See* 79 FR 46711.

III. Response to Comments

EPA received several anonymous comments on the October 21, 2016 proposed rulemaking. These comments are summarized below with EPA's response.

Comment: The commenter states that Virginia should retain Stage II requirements, as they will keep Virginia's standards for good air quality at its highest when there is a legal requirement that must be followed.

Response: EPA disagrees with the commenter's assertion that retaining Stage II as a regulatory requirement will maintain air quality in the regulated Virginia areas in question. Virginia demonstrated in two prior EPA-approved SIP revisions (80 FR 29959 (May 26, 2015) and 79 FR 46711 (August 11, 2014)) that retaining Stage II in the presence of widespread use of ORVR equipment not only does not further reduce refueling emissions—it actually increases emissions due to an incompatibility between certain Stage II equipment and ORVR. Removal of Virginia Stage II regulatory requirements will not interfere with any of the Virginia areas' ability to achieve or maintain any NAAQS. Virginia's Stage II removal demonstration SIP revisions which EPA approved clearly showed removal of Stage II requirements would not interfere with any applicable CAA requirement concerning reasonable further progress or attainment of a NAAQS or any other CAA requirement, per section 110(l) of the CAA. Virginia's SIP-approved demonstrations show that ORVR systems alone will achieve emission reductions equivalent to Stage II and ORVR combined in all three Virginia areas which were subject to Stage II. Virginia's noninterference demonstrations were performed in accordance with EPA's final rule determining that ORVR is now in ''widespread use'' in the national motor vehicle fleet (May 16, 2012 (77 FR 28770)) and with EPA's ''Guidance on Removing Stage II Vapor Control

Programs from State Implementation Plans and Assessing Comparable Measures'' (EPA–457/B–12–001, August 7, 2012), hereafter referred to as EPA's Stage II Removal Guidance. A copy of this guidance has been placed in the public docket for this action.

Virginia's March 18, 2014 SIP revision demonstrated that removal of Stage II in the Washington and Fredericksburg Areas would not increase emissions under the approved ozone attainment plan for the Northern Virginia portion of the Washington, DC nonattainment area or the approved ozone maintenance plan for the Fredericksburg Area, and would not interfere with these areas' ability to attain and maintain the ozone or any other NAAQS. EPA approved Virginia's March 18, 2014 SIP revision on May 26, 2015 (80 FR 29959).

Virginia's November 12, 2013 SIP revision amended the approved maintenance plan SIP for the Richmond Area to demonstrate that removal of the Stage II program would not interfere with this area's ability to attain the ozone NAAQS. EPA approved Virginia's November 12, 2013 SIP revision on August 11, 2014 (79 FR 46711).

These prior, approved Stage II removal demonstration SIPs show that a vast majority of Virginia vehicles being refueled at GDFs are now equipped with vehicle-based ORVR systems, and that these ORVR systems will better control the VOC refueling emissions previously captured by station-based Stage II equipment, making Stage II no longer necessary. Given known incompatibilities between certain types of Stage II equipment used in Virginia and ORVR systems, removal of Stage II regulatory requirements and the resultant decommissioning of Stage II systems has been demonstrated by Virginia (in its November 2013 and March 2014 SIP revisions) to not interfere with air quality in the applicable areas of the Commonwealth. The science and rationale behind allowing Virginia to remove Stage II equipment from these areas was fully discussed in the SIP noninterference demonstrations approved by EPA on August 11, 2014 and May 26, 2015. This action relies upon those demonstrations and serves only to remove the Stage II requirements, which Virginia has already removed from its own regulations, from the SIP.

Therefore, the commenter's assertion that keeping Stage II as a requirement along with ORVR would better maintain air quality than ORVR alone is contrary to the prior air quality demonstration SIPs submitted by Virginia (and approved by EPA), which demonstrate that air quality in affected areas of Virginia is not adversely impacted by removal of the Stage II requirement.

Comment: The commenter generally supports EPA's action to approve Virginia's regulatory amendments to remove Stage II, as use of ORVR and Stage II is ''terribly inefficient.'' However, the commenter argues that the term ''widespread use'' in reference to ORVR is vague. The commenter wants EPA to ensure that policies that require ORVR be mandatory be implemented in place of Stage II. The commenter asserts that ORVR is better than Stage II as a means of recovering refueling emissions, but having neither in place would be worse than having them both—even if they are incompatible.

Response: Preliminarily, EPA disagrees with the commenter's assertion that ORVR is not required or that policies requiring ORVR are not in place. EPA promulgated ORVR standards on April 6, 1994 at 59 FR 16262, codified at 40 CFR parts 86 (including 86.098–8), 88, and 600. Beginning model year 1998, ORVR was phased-in as a required system on new passenger vehicles, and has been required on nearly all new highway vehicles manufactured since model year 2006. Consequently, ORVR is used in such vehicles and controls VOC emissions throughout the United States, no matter how any areas are designated and classified with respect to the ozone NAAQS.

Under CAA section 182 (b)(3), Stage II is required to be used at GDFs located in areas classified as serious or worse ozone nonattainment areas, and consequently controls VOC emissions only in such areas and in areas covered by a ''comparable measures'' SIP under section 184. Originally, CAA section 182(b)(3) also required Stage II in moderate ozone nonattainment areas; however, section 202(a)(6) directed that the moderate area requirement no longer applied after EPA promulgated ORVR standards in 1994. EPA issued a final rule on May 16, 2012 (77 FR 28770) determining that ORVR was then in ''widespread use'' in the national motor vehicle fleet, under authority of section 202(a)(6). As a result, EPA waived Stage II requirements under section 182 for ozone nonattainment areas classified as serious or above. States previously required to implement Stage II under section 182(b)(3) could take action to remove their Stage II program requirements via revisions to their SIPs.

EPA disagrees with the commenter's assertion that ''widespread use'' is vaguely defined and that EPA does not have clearly defined policies that require ORVR in place of Stage II. EPA's May 2012 ''widespread use'' determination rule, which no one timely challenged and cannot be challenged now, clearly defined what constitutes widespread use of ORVR, and sets forth how EPA's widespread use determination relates to states with Stage II programs in their SIPs. Subsequent to issuance of the ''widespread use'' determination action, EPA issued its Stage II removal guidance document, for use by states in developing SIP revisions to remove Stage II while demonstrating that interference with attainment or maintenance of a NAAQS will not occur. Virginia's prior, EPA-approved, Stage II removal demonstration SIP revisions show not only that removal of Stage II will not jeopardize air quality goals for affected Washington, Fredericksburg, and Richmond Areas, but also that ORVR alone will achieve greater emission reductions than ORVR in combination with Stage II in those Virginia Stage II program areas.

Finally, because EPA has stated that ORVR is required, EPA disagrees with the implication from the commenter that our approval of the removal of Stage II from the Virginia SIP would leave no vapor recovery system in place. ORVR provides for vapor recovery.

IV. Final Action

In accordance with section 110 of the CAA, EPA is approving Virginia's revision to its SIP to amend its Stage II vapor recovery regulatory provisions to remove the requirement for Virginia area GDFs to operate Stage II in areas formerly subject to Stage II under CAA sections 182 and 184, and to add provisions to allow GDFs currently operating Stage II equipment the option to decommission those systems.

Specifically, EPA is approving and incorporating by reference the Virginia SIP revision that amended the Commonwealth's Rule 4–37 governing petroleum liquid and transfer operations applicable to existing stationary sources, which includes modified requirements for the Commonwealth's Stage II vapor recovery program in 9–VAC5–5220 and 9VAC5–5270, effective July 20, 2015.

EPA is approving this SIP revision because Virginia has previously demonstrated through its two prior approved Stage II SIP noninterference demonstrations that removal of the Stage II program regulatory requirement will not result in an increase in emissions that could interfere with Virginia's attainment or maintenance of the ozone NAAQS or any other applicable CAA requirement.

V. 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 that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) 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 revised Stage II program regulations consistent with the relevant 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 CAA, 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 CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

VI. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Virginia's amendments to Article 37 of 9VAC5–40 and also amendments to Virginia's general provisions at 9VAC5–20–21, reflecting the addition of a new source of documents incorporated by reference, effective on July 20, 2015. Additionally, EPA is approving Virginia's amended Rule 4–37 governing petroleum liquid and transfer operations applicable to existing stationary sources, specifically 9–VAC5–5220 and 9VAC5–5270, effective July 20, 2015.

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as

[1] 62 FR 27968 (May 22, 1997).

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 10, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 amend Virginia's Stage II regulatory provisions 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 14, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 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:

■ a. The table in paragraph (c) is amended by revising the entry for Section 5–40–5220 and by adding an entry for Section 5–40–5270; and

■ b. The table in paragraph (e) is amended by revising the entry for ''Documents Incorporated by Reference (9 VAC 5–20–21, Section B.)'' and by adding an entry for ''Documents Incorporated by Reference (9 VAC 5–20–21, Section E.15.).''

The revisions and additions read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
9 VAC 5, Chapter 40 Existing Stationary Sources				
*	*	*	*	*
Part II Emissions Standards				
*	*	*	*	*
Article 37 Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rule 4–37)				
*	*	*	*	*
5–40–5220	Standard for Volatile Organic Compounds.	07/30/2015	05/10/2017 [Insert **Federal Register** Citation].	
*	*	*	*	*
5–40–5270	Standard for Toxic Pollutants	07/30/2015	05/10/2017 [Insert **Federal Register** Citation].	
*	*	*	*	*

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(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	* * * *	*	*	*
Documents Incorporated by Reference (9 VAC 5–20–21, Section B.).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area, Fredericksburg Ozone Maintenance Area, Richmond-Petersburg Ozone Maintenance Area.	10/1/2015	05/10/2017 [Insert **Federal Register** Citation].	State effective date is 7/30/15.
*	* * * *	*	*	*
Documents Incorporated by Reference (9 VAC 5–20–21, Section E.15.).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area, Fredericksburg Ozone Maintenance Area, Richmond-Petersburg Ozone Maintenance Area.	10/1/2015	05/10/2017 [Insert **Federal Register** Citation].	State effective date is 7/30/15.
*	* * * *	*	*	*

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[FR Doc. 2017–09387 Filed 5–9–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0645; FRL–9962–11-Region 5]

Air Plan Approval; Indiana; Commissioner's Order for SABIC Innovative Plastics

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, as a revision to the Indiana State Implementation Plan (SIP), a submittal from the Indiana Department of Environmental Management (IDEM) to EPA, dated December 5, 2016. The submittal consists of an order issued by the Commissioner of IDEM that establishes permanent and enforceable sulfur dioxide (SO_2) emission limits for SABIC Innovative Plastics (SABIC). IDEM submitted this order so the area near SABIC can be designated ''attainment'' of the 2010 primary SO_2 National Ambient Air Quality Standards (NAAQS), a matter that will be addressed in a separate future rulemaking. EPA's approval of this this order would make these SO_2 emission limits and applicable reporting, recordkeeping, and compliance demonstration requirements part of the federally enforceable Indiana SIP.

DATES: This direct final rule is be effective July 10, 2017, unless EPA receives adverse comments by June 9, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Nos. EPA–R05–OAR–2016–0645 at *http://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Ko, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7947, *ko.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Why did IDEM issue this Commissioner's Order?

On December 5, 2016, IDEM submitted for approval, as a revision to the Indiana SIP, an order issued by IDEM's Commissioner that establishes SO_2 emission limits for SABIC. SO_2 emission limits for SABIC previously did not exist in the Indiana SIP. IDEM established these emission limits so the area near SABIC can qualify in the future for being designated ''attainment'' of the 2010 primary SO_2 NAAQS. The history of the 2010 SO_2 NAAQS designation process and the applicable Data Requirements Rule (DRR) is explained below in order to provide a more detailed explanation of the context for IDEM's request.

On June 3, 2010, pursuant to section 109 of the Clean Air Act (CAA), EPA revised the primary (health-based) SO_2 NAAQS by establishing a new one-hour standard codified at title 40 Code of Federal Regulations (CFR) section 50.17 (75 FR 35520). Pursuant to section 107(d) of the CAA, EPA must designate areas as either ''unclassifiable,'' ''attainment,'' or ''nonattainment'' for the 2010 one-hour SO_2 primary NAAQS. Under Section 107(d) of the CAA, a nonattainment area is any area that does not meet the NAAQS or that contributes to a violation in a nearby area. An attainment area is any area, other than a nonattainment area, that meets the NAAQS. Unclassifiable areas are those that cannot be classified on the basis of