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 August 9, 2021. 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, approving PADEP's second maintenance plan for the Tioga County Area for the 1997 ozone NAAQS, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 28, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding the entry ''Second Maintenance Plan for the State College 1997 8-Hour Ozone Nonattainment Area'' at the end of the table to read as follows:

**§ 52.2020 Identification of plan.**

* * * * *

(e) * * *

(1) * * *

| Name of non-regulatory SIP revision | Applicable geographic area | State submittal date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| Second Maintenance Plan for the State College 1997 8-Hour Ozone Nonattainment Area. | Tioga County Area .. | 3/10/20 | 6/9/21, [insert **Federal Register** citation]. | The Tioga County area consists solely of Tioga County. |

* * * * *

[FR Doc. 2021–11925 Filed 6–8–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2020–0596; FRL–10024–43–Region 3]**

## Air Plan Approval; Virginia; Revised RACT Permit for Roanoke Electric Steel/Steel Dynamics, Inc.

**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 consists of amendments to a federally enforceable state operating permit (FESOP) which was previously incorporated into the Virginia SIP in order to implement reasonably available control technology (RACT) for nitrogen oxide ($NO_X$) emissions from Steel Dynamics, Inc. (hereafter ''SDI,'' formerly Roanoke Electric Steel). This action is being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on July 9, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2020–0596. All documents in the docket are listed on the *https://www.regulations.gov* website. 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 *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** David Talley, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2117. Mr. Talley can also be reached via electronic mail at *talley.david@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On March 8, 2021 (86 FR 13254), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Virginia. In the NPRM, EPA proposed approval of Virginia's submittal. The formal SIP revision was submitted by the Virginia Department of Environmental Quality (VADEQ) on behalf of the Commonwealth on April 14, 2020.

Prior to the establishment of nonattainment areas for the 1997 8-hour ozone national ambient air quality standards (NAAQS), EPA developed a program to allow these potential nonattainment areas to voluntarily adopt local emission control programs to avoid air quality violations and mandated nonattainment area controls. Areas with air quality meeting the 1979 1-hour ozone NAAQS were eligible to participate. In order to participate, state

and local governments and EPA developed and signed a memorandum of agreement that describes the local control measures the state or local community intends to adopt and implement to reduce ozone emissions in advance of air quality violations. In this agreement, also known as an Early Action Compact (EAC), the state or local communities agree to prepare emission inventories and conduct air quality modeling and monitoring to support its selection of emission controls. Areas that participated in the EAC program had the flexibility to institute their own approach in maintaining clean air and protecting public health. Several localities in the Winchester and Roanoke areas elected to participate in the EAC program. The areas that signed an EAC were the City of Winchester and Frederick County, which comprised the Northern Shenandoah Valley EAC; and the cities of Roanoke and Salem, and the counties of Roanoke and Botetourt, which comprised the Roanoke EAC. VADEQ's approach to implementing the EAC was that RACT be applied to sources of $NO_X$ and volatile organic compounds (VOCs) within those localities that were otherwise not subject to RACT. The Roanoke Electric Steel Corporation, currently SDI, was one such source. On April 27, 2005, EPA approved a SIP revision for the Commonwealth of Virginia which incorporated provisions from a federally enforceable state operating permit into the Virginia SIP in order to apply RACT to several units at SDI (Virginia permit registration No. 20131, issued December 22, 2004; hereafter, ''2004 Permit''). See 70 FR 21621.

## II. Summary of SIP Revision and EPA Analysis

Virginia's April 14, 2020 submittal includes a revised operating permit for SDI which amends the 2004 permit to account for changes in operation at the facility, including the shut-down of a number of units. Since the issuance of the 2004 permit (and EPA's subsequent SIP approval), operations at the facility have changed, requiring a revision of both the operating permit and the operating permit provisions incorporated into the SIP. The only remaining units at the facility that are subject to the source specific $NO_X$ RACT limits of the 2004 permit are Electric Arc Furnace (EAF) #5 and the Ladle Metallurgical Station (LMS) #5. The other units have been removed, replaced with equipment that was not subject to RACT, or never constructed. The RACT limits for those remaining units have not changed, and there are no emissions increases associated with either the revised permit, or Virginia's proposed SIP revision. The permit, and ultimately the SIP, are simply being revised to account for the removal of provisions related to emissions units that no longer exist. Other specific requirements of and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

## III. EPA's Response to Comments Received

EPA received one comment in response to the proposed rulemaking. The comment was supportive of EPA's proposed action and will not be addressed here but is provided in the docket for this rulemaking. No adverse comments were received.

## IV. Final Action

EPA is approving VADEQ's April 14, 2020 submittal as a revision to the Virginia SIP.

## 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 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 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 document, 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 the unredacted portions of Virginia stationary source permit to operate, registration number 20132, issued to Roanoke Electric Steel (D/B/A Steel Dynamics, Inc.) on December 22, 2004, and revised on March 25, 2020. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). 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 in the next update to the SIP compilation.[1]

## 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 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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

### *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 August 9, 2021. 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 pertaining to source specific $NO_X$ limits at SDI 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: May 28, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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, the table in paragraph (d) is amended by removing the entry ''Roanoke Electric Steel Corp'' and adding the entry ''Roanoke Electric Steel Corporation D/B/A Steel Dynamics, Inc.—Roanoke Bar Division'' in its place to read as follows:

**§ 52.2420 Identification of plan.**

* * * * *

(d) * * *

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

EPA—APPROVED SOURCE SPECIFIC REQUIREMENTS

| Source name | Permit/order or registration No. | State effective date | EPA approval date | 40 CFR part 52 citation |
|---|---|---|---|---|
| * * | * | * | * * | * |
| Roanoke Electric Steel Corporation D/B/A Steel Dynamics, Inc.—Roanoke Bar Division. | 20131 | 3/25/20 | 6/9/21, [Insert **Federal Register** citation] ..... | 52.2420(d)(7) |
| * * | * | * | * * | * |

* * * * *

[FR Doc. 2021–11923 Filed 6–8–21; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Parts 3160 and 9230

**[212.LLHQ310000.L13100000.PP0000]**

**RIN 1004–AE77**

## Onshore Oil and Gas Operations and Coal Trespass—Annual Civil Penalties Inflation Adjustments

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule adjusts the level of civil monetary penalties contained in the Bureau of Land Management's (BLM) regulations governing onshore oil and gas operations and coal trespass as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and consistent with applicable Office of Management and Budget (OMB) guidance. The oil and gas operations penalty adjustments made by this final rule constitute the 2021 annual inflation adjustments, accounting for 1 year of inflation spanning the period from October 2019 through October 2020. The coal trespass inflation adjustments in this rule include the initial ''catch-up'' adjustment for 2016, and the annual adjustments for years 2017 to 2021.

**DATES:** This rule is effective on June 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the BLM's Fluid Minerals Program, please contact Donna Dixon, Division Chief, Fluid Minerals Division, telephone: 505–954–2032; email: *dbdixon@blm.gov.* For information regarding the BLM's Solid Minerals Program, please contact Lindsey Curnutt, Division Chief, Solid Minerals Division, telephone: 775–824–2910; email: *lcurnutt@blm.gov.* For questions relating to regulatory process issues, please contact Jennifer Noe, Division of Regulatory Affairs, email: *jnoe@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week to contact the above individuals.

**SUPPLEMENTARY INFORMATION:**



### I. Background

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (the 2015 Act) became law, amending the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410).

The 2015 Act requires agencies to:

1. Adjust the level of civil monetary penalties for inflation with an initial ''catch-up'' adjustment through an interim final rulemaking in 2016;

2. Make subsequent annual adjustments for inflation beginning in 2017; and

3. Report annually in Agency Financial Reports on these inflation adjustments.

The purpose of these adjustments is to maintain the deterrent effect of civil monetary penalties and promote compliance with the law (*see* Sec. 1, Pub. L. 101–410).

As required by the 2015 Act, the BLM issued an interim final rule that adjusted the level of civil monetary penalties in BLM regulations with the initial ''catch-up'' adjustment (RIN 1004–AE46, 81 FR 41860), which was published on June 28, 2016, and became effective on July 28, 2016. On January 19, 2017, the BLM published a final rule (RIN 1004–AE49, 82 FR 6305) updating the civil penalty amounts to the 2017 annual adjustment levels. Final rules updating the civil penalty amounts to 2018, 2019, and 2020 annual adjustment levels were published in subsequent years (RIN 1004–AE51, 83 FR 3992; RIN 1004–AE56, 84 FR 22379; and RIN 1004–AE77, 85 FR 10617, respectively).

OMB issued Memorandum M–21–10 on December 23, 2020, (Implementation of Penalty Inflation Adjustments for 2021, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015) explaining agency responsibilities for identifying applicable penalties and calculating the annual adjustment for 2021 in accordance with the 2015 Act.

### II. Calculation of 2021 Adjustment

In accordance with the 2015 Act and OMB Memorandum M–21–10, the BLM has identified applicable civil monetary penalties in its regulations and calculated the annual adjustments. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, nor does it include fees for services, licenses, permits, or other regulatory review. The calculated annual inflation adjustments are based on the percentage change between the Consumer Price Index for all Urban Consumers (CPI–U) for the October preceding the date of the adjustment, and the prior year's October CPI–U. Consistent with guidance in OMB Memorandum M–21–10, the BLM divided the October 2020 CPI–U by the October 2019 CPI–U to calculate the