

Title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*
5 CCR 1001–13, Regulation Number 11, Motor Vehicle Emissions Inspection Program—Part F, Maximum Allowable Emissions Limits for Motor Vehicle Exhaust, Evaporative and Visible Emissions for Light-Duty and Heavy-Duty Vehicles				
*	*	*	*	*
V. Visible Smoke	2/15/2013	11/21/2016	[Insert Federal Register citation], 10/21/2016.	
VI. Clean Screen Program Maximum Allowable Emissions Limits.	8/30/2007	11/21/2016	[Insert Federal Register citation], 10/21/2016.	
VII. On-Board Diagnostic Inspection Passing Criteria	2/15/2013	11/21/2016	[Insert Federal Register citation], 10/21/2016.	
5 CCR 1001–13, Regulation Number 11, Appendices				
Appendix A, Specifications for Colorado 94 Analyzer	8/30/2007 12/30/2013	11/21/2016	[Insert Federal Register citation], 10/21/2016.	
Appendix B, Standards and Specifications for the Suppliers of Span and Calibration Gases.	12/30/2013	11/21/2016	[Insert Federal Register citation], 10/21/2016.	
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[FR Doc. 2016–25295 Filed 10–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0308; FRL–9954–18–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: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Virginia's state implementation plan (SIP). The revision serves to remove requirements for vapor recovery equipment (also referred to as Stage II vapor recovery, or simply as Stage II) from subject gasoline stations in areas of Virginia that were formerly required to install and operate Stage II under the prior approved SIP. In 2012, EPA determined that new, gasoline-powered vehicles equipped with onboard vapor recovery systems (beginning with those manufactured in model year 1998) were in widespread use and have, in great part, supplanted emission reductions formerly controlled via Stage II vapor recovery on gasoline

dispensers at service stations. In two prior rulemakings, EPA has already approved Virginia's demonstrations showing that the emission benefits generated by Stage II vapor recovery have been fully offset, without impacting the affected Virginia areas' ability to attain and maintain any national ambient air quality standard (NAAQS). Virginia amended its existing rules to remove Stage II as a required measure by January 2017 and added decommissioning procedures for stations electing to opt out of the program. EPA is approving this SIP revision to amend the Virginia Stage II vapor recovery program in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on December 20, 2016 without further notice, unless EPA receives adverse written comment by November 21, 2016. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0308 at <http://www.regulations.gov>, or via email to pino.maria@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.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: Brian Rehn, (215) 814–2176, or by email at rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

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 gasoline dispensing facility (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 toxic 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 has three areas that have approved Stage II SIPs meeting Stage II requirements under the 1990 amendments to the CAA. The Richmond area was designated as moderate nonattainment under the 1-hour ozone NAAQS, and again under the 1997 8-hour ozone NAAQS. On July 26, 1996, Virginia submitted a request to redesignate the Richmond area to attainment of the 1-hour ozone NAAQS. EPA's approval of this request was published in the November 17, 1997 **Federal Register** (62 FR 61237). On September 26, 2006, Virginia requested redesignation of the Richmond area to attainment for the 1997 8-hour ozone NAAQS. EPA approved that redesignation request in the June 1, 2007 **Federal Register** (72 FR 30485). However, Virginia's plans for maintenance of the respective NAAQS relied upon the emissions reductions from Stage II as a means to ensure continued maintenance of the ozone NAAQS. Although the 1-hour ozone NAAQS was revoked 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. Under the 1997 8-hour ozone NAAQS, both the Northern Virginia area and the neighboring Fredericksburg area were designated as moderate nonattainment. 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 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. Therefore, Stage II continued to apply in the Washington, DC nonattainment area as an anti-backsliding measure (for the revoked 1-hour ozone NAAQS) and in the Fredericksburg area as a maintenance measure (under the 1997 ozone NAAQS) 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. Stage II applicability was limited to the Northern Virginia volatile organic compound (VOC) Emission Control Area (comprised of Arlington, Alexandria, Fairfax, Loudon, Prince William and Stafford Counties, plus the cities of Alexandria, Fairfax, Falls Church, Manassas, and Stafford) and to the Richmond VOC Emission Control Area (comprised of the Counties of Charles City, Chesterfield, Hanover, and Henrico, plus the cities of Colonial Heights, Hopewell, and Richmond). 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 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 directs that Stage II requirements no longer apply to 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 has analyzed the interference effect between certain Stage II systems and ORVR systems. As a result, 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 evaluate and address the emissions impacts to each of those affected areas associated with removal of the Stage II program. These plans serve to amend 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 will 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 nonattainment 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.

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. The purpose of the Commonwealth's 2015 SIP revision

submittal is to remove Stage II vapor recovery requirements applicable in covered areas in Virginia from the Commonwealth's rule provisions governing petroleum liquid storage and transfer operations. 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 will no longer be required to employ Stage II vapor recovery systems as of January 2017. Virginia's amendment to Rule 4–37 also requires facilities electing to decommission Stage II to meet established decommissioning procedures and those electing to continue to operate Stage II to continue to properly operate and maintain their Stage II systems.

As described in the Background section of this action, EPA has 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.

Virginia's Department of Environmental Quality (VA DEQ) examined whether Stage II vapor recovery is necessary for ozone control purposes, and determined this program is no longer beneficial to air quality of the Commonwealth, given EPA's widespread use determination for ORVR equipment in new vehicles manufactured since 1998 and the inherent redundancies between Stage II vapor recovery equipment and vehicle-based ORVR systems, as well as the known incompatibilities between certain types of 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 widespread use policy of ORVR 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 a NAAQS, 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 4671*.

III. Final Action

EPA is approving Virginia's revision to its SIP to include revised Stage II vapor recovery 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 setting requirements for GDFs opting to decommission existing Stage II systems. As described previously, EPA previously approved two earlier, related Virginia SIP revisions demonstrating that Virginia's Stage II-affected areas (*i.e.*, the Virginia portion of Washington, DC, Fredericksburg, and Richmond ozone nonattainment areas) will not be adversely affected by the removal of the Stage II vapor recovery requirement. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment.

However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 20, 2016 without further notice unless EPA receives adverse comment by November 21, 2016. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the

proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. 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 § 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.

V. 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, relating also to 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, Virginia amended its Rule 4-37 governing petroleum liquid and transfer operations applicable to existing stationary sources. Specifically, Virginia modified requirements for the Commonwealth's Stage II vapor recovery program in 9-VAC5-5220 and 9VAC5-5270, effective July 20, 2015. 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 of the SIP compilation.¹ EPA has made, and will continue to make, these materials generally available through 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).

VI. 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. 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 December 20, 2016. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action to amend Virginia's approved Stage II

¹ 62 FR 27968 (May 22, 1997).

vapor recovery SIP to amend the Commonwealth's requirements for the Stage II vapor recovery program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2016.
Shawn M. Garvin,
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. Amend § 52.2420:

■ a. In the table in paragraph (c) by revising the entry “5–40–5220” and adding in numerical order an entry for “5–40–5270”; and

■ b. In the table in paragraph (e) by revising an entry “Documents Incorporated by Reference (9 VAC 5–20–21, Section B.)” and adding “Documents Incorporated by Reference (9 VAC 5–20–21, Section E.15.)” at the end of the table.

The revised and added text reads 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 IV]				
*	*	*	*	*
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	10/21/2016 [Insert Federal Register Citation].	
*	*	*	*	*
5–40–5270	Standard for Toxic Pollutants	07/30/2015	10/21/2016 [Insert Federal Register Citation].	
*	*	*	*	*
(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	10/21/2016 [Insert Federal Register Citation].	State effective date is 7/30/15.

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 E.15.).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area, Fredericksburg Ozone Maintenance Area, Richmond-Petersburg Ozone Maintenance Area.	10/1/2015	10/21/2016 [<i>Insert Federal Register Citation</i>].	State effective date is 7/30/15.
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[FR Doc. 2016–25301 Filed 10–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2009–0734; FRL–9954–38–OAR]

Reconsideration of Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action denying petition for reconsideration.

SUMMARY: This action provides notice that the U.S. Environmental Protection Agency (EPA) Administrator, Gina McCarthy, denied a petition for reconsideration of the final Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces published in the **Federal Register** on March 16, 2015.

DATES: This action is effective on October 21, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Amanda Aldridge, Outreach and Information Division (C304–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5268; fax number (919) 541–2664; email address: aldridge.amanda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

This **Federal Register** notice, the petition for reconsideration and the EPA's letter addressing the petition for

reconsideration are available in the docket under Docket ID No. EPA–HQ–OAR–2009–0734.

Docket. The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2009–0734. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. This action, the petition for reconsideration and the EPA's letter addressing the petition can also be found on the EPA's Web site at <http://www.epa.gov/ttn/oarpg>.

Electronic access. You may access this **Federal Register** document electronically from the Government Printing Office under the “**Federal Register**” listings at FDSys (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>).

II. Judicial Review

Section 307(b)(1) of the Clean Air Act (CAA) indicates which Federal Court of Appeals have venue over petitions for review of final EPA actions. This section provides, in part, that the petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if: (i) The agency action consists of “nationally applicable regulations promulgated, or final action taken, by the Administrator;” or (ii) such actions are locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.”

The EPA has determined that its action denying the petition for

reconsideration is nationally applicable for purposes of CAA section 307(b)(1) because the action directly affects the final Standards of Performance for New Residential Wood Heaters, new Residential Hydronic Heaters and Forced-Air Furnaces published on March 16, 2015, (“2015 New Source Performance Standards (NSPS)”), which are nationally applicable regulations. Thus, any petitions for review of the EPA's decision to deny the petition for reconsideration described in this document must be filed in the United States Court of Appeals for the District of Columbia Circuit by December 20, 2016.

III. Description of Action

The 2015 NSPS finalizes amendments to the 1988 Standards of Performance for New Residential Wood Heaters (40 CFR part 60, subpart AAA), *i.e.*, the 1988 NSPS, and adds one new subpart: Standards of Performance for the New Residential Hydronic Heaters and Forced-Air Furnaces (40 CFR part 60, subpart QQQQ). The 2015 NSPS was developed following a CAA section 111(b)(1)(B) review of the 1988 NSPS (53 FR 5860, February 26, 1988). This information is contained in the docket, which is available at <http://www.regulations.gov>. On February 3, 2014, the EPA proposed Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces (79 FR 6373). The EPA received additional data and comments during the public comment period. These data and comments were considered and analyzed and, where appropriate, the EPA revised the proposed rule. The final rule was published on March 16, 2015 (80 FR 13671).

On June 2, 2015, Richard S. Burns & Company, Inc. (“Burns”) submitted a petition for reconsideration of the 2015 NSPS (80 FR 13671, March 16, 2015). In its petition, Burns asks the EPA to reconsider aspects of the final rule's pellet fuel requirements in 40 CFR