waters of the United States and contiguous land areas within an area starting at a point latitude 46°20′00″ N, longitude 88°30′00″ W, proceeding west to the Minnesota-North Dakota boundary at latitude 46°20′00″ N, longitude 96°36′30″ W; thence north along the Minnesota-North Dakota boundary to the intersection of the Minnesota-North Dakota boundary and the international boundary at latitude 49°00′02″ N, longitude 97°13′46″ W; thence east along the international boundary to a point at latitude 47°59′23″ N, longitude 87°35′10″ W; thence south to a point near Manitou Island Light at latitude 47°25′09″ N, longitude 87°35′10″ W; thence southwest to a point near the shore of Lake Superior at latitude 46°51′51″ N, longitude 87°45′00″ W; thence southwest to the point of origin.

Dated: March 7, 2011.

Kathryn A. Sinniger,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2011–5731 Filed 3–11–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0903; FRL–9278–7]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revisions to the Open Burning Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Virginia State Implementation Plan (SIP). The revisions recodify the open burning regulations which are currently in the Virginia SIP. There are no substantive changes to the rule. EPA is approving these revisions to Virginia's open burning regulations in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on May 13, 2011 without further notice, unless EPA receives adverse written comment by April 13, 2011. 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 Number EPA–R03–OAR–2010–0903 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: frankford.harold@epa.gov.*

C. *Mail:* EPA–R03–OAR–2010–0903, Harold A. Frankford, Air Protection Division, Mailcode 3AP00, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2010–0903. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittals are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108, or by e-mail at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On September 27, 2010, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of the recodification of its open burning regulations.

II. Summary of SIP Revision

The recodification moves the Commonwealth's SIP-approved open burning regulations from 9VAC5, Chapter 140, Part II Article 40 to a new 9VAC5 Chapter 130, Part I. The following table summarizes the current and new Virginia Administrative Code (VAC) citations for these regulations:

Regulation title	Current Virginia SIP citation in 9VAC5 chapter 40, part II, article 40	Revised Virginia SIP citation in 9VAC5 chapter 130, part I
Applicability	5–40–5600	5–130–10
Definitions	5–40–5610	5–130–20
Open Burning Prohibitions	5–40–5620	5–130–30
Permissible Open Burning	5–40–5630	5–130–40

Regulation title	Current Virginia SIP citation in 9VAC5 chapter 40, part II, article 40	Revised Virginia SIP citation in 9VAC5 chapter 130, part I
Forest Management and Agricultural Practices	5–40–5631	5–130–50

The changes in text to these regulations are administrative in nature; there are no substantive changes from the current SIP-approved regulatory text.

III. General Information Pertaining to 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 Section 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) That are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Section 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 Section 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.

IV. Final Action

EPA is approving the recodification of Virginia's SIP-approved open burning regulations from 9VAC5 Chapter 40, Part II, Article 40 to the open burning regulations cited in 9VAC5 Chapter 130. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 13, 2011 without further notice unless EPA receives adverse comment by April 13, 2011. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. 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 Act 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 May 13, 2011. 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. This action to recodify Virginia's SIP-approved open burning regulations 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 1, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority for citation for part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by removing the category for Article 40 and adding a category for Chapter 130 after the existing entry for 5–91–800, to 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]
*	*	*	*	*
9VAC5, Chapter 130 Regulations for Open Burning [Formerly 9VAC5 Chapter 40, Part II, Article 40]				
Part I General Provisions				
5–130–10	Applicability	3/18/09	3/14/11 [*Insert page number where the document begins*].	Formerly 5–40–5600 Provisions of Article 40 are applicable only in the Northern Virginia and Richmond Emissions Control Areas as defined in 9 VAC 5–20–206.
5–130–20	Definitions	3/18/09	3/14/11 [*Insert page number where the document begins*].	Formerly 5–40–5610.
5–130–30	Open Burning Prohibitions	3/18/09	3/14/11 [*Insert page number where the document begins*].	Formerly 5–40–5620.
5–130–40	Permissible Open Burning	3/18/09	3/14/11 [*Insert page number where the document begins*].	Formerly 5–40–5630.

EPA–APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–130–50	Forest Management and Agricultural Practices.	3/18/09	3/14/11 [*Insert page number where the document begins*].	Formerly 5–40–5631.
*	*	*	*	* * *

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[FR Doc. 2011–5625 Filed 3–11–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2008–0334; FRL–9279–8]

RIN 2060–AQ89

National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing this final rule to stay the requirement for certain affected sources to comply with the title V permit program during the pendency of the reconsideration process. On June 15, 2010, EPA notified Petitioners that the Agency intended to initiate the reconsideration process in response to their request for reconsideration of certain provisions in the National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources. Among the provisions EPA is reconsidering is a requirement that certain affected sources obtain a permit.

On December 14, 2010, EPA issued a 90-day stay of the requirement for certain affected sources to comply with the title V permit program. Because we believed that the reconsideration process would not be completed within 90 days, we concurrently proposed to stay the provision requiring certain sources to obtain a permit until the final reconsideration rule is published in the **Federal Register**. After considering the comments received, EPA is promulgating the stay of compliance through this final rule.

DATES: This final rule is effective on March 14, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0334. 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 or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov,* or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The 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.

FOR FURTHER INFORMATION CONTACT: Mr. Nick Parsons, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Refining and Chemicals Group (E143–01), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5372; fax number: (919) 541–0246; e-mail address: *parsons.nick@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The EPA published final National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources (CMAS) on October 29, 2009. 40 CFR part 63, subpart VVVVVV (74 FR 56008). Included in the final rule was a new provision that stated "[a]ny source that was a major source and installed a control device on a CMPU [1] after November 15, 1990, and, as a result, became an area source under 40 CFR part 63 is required to obtain a permit under 40 CFR part 70 or 40 CFR part 71." See 40 CFR 63.11494(e).

On February 12, 2010, the American Chemistry Council and the Society of Chemical Manufacturers and Affiliates (collectively referred to as "Petitioners") sought reconsideration of six provisions in the final rule, including the provision requiring certain sources to obtain a title V permit. On June 15, 2010, EPA notified Petitioners that the Agency intended to initiate the reconsideration process. EPA also separately notified Petitioners that the provision requiring certain sources to obtain a title V permit was among the provisions for which EPA would grant reconsideration.

By letter dated October 28, 2010, Petitioners requested a stay of the requirement to comply with the title V permit program, specifically the requirement to submit a title V permit application, pending completion of the reconsideration process. Petitioners stated in their letter that they were requesting the stay because EPA has yet to initiate the reconsideration process, and, "under one interpretation of EPA's [40 CFR part 70 and 40 CFR part 71] regulations, existing sources must file Title V permit applications [by] October 29, 2010." Petitioners maintained that it would be unreasonable and inequitable to require facilities to prepare and submit title V applications at the same time that EPA is reconsidering the requirement to obtain a title V permit.

On December 14, 2010, we issued a 90-day stay of the requirement for certain sources to obtain a title V permit, and we concurrently proposed extending the stay beyond the 90-day period until the reconsideration process is completed (75 FR 77760 and 75 FR 77799). As explained in the proposal notice, we proposed the stay because facilities had no chance to comment on this new requirement in the final rule, and because we are reconsidering the title V permitting requirement. Furthermore, because we cannot prejudge the outcome of the reconsideration process, we stated that a limited stay during the duration of the administrative reconsideration process is appropriate so that sources are not incurring the cost associated with applying for a title V permit in advance of our final decision on the issue.

II. What action is EPA taking?

We are issuing a stay of the provision in 40 CFR 63.11494(e) that requires "[a]ny source that was a major source and installed a control device on a CMPU after November 15, 1990, and, as a result, became an area source under 40 CFR part 63 is required to obtain a

[1] Chemical Manufacturing Process Unit.