

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09-0419 to read as follows:

**§ 165.T09-0419 Safety Zone; Flagship Niagara Mariners Ball Fireworks, Presque Isle Bay, Erie, PA.**

(a) *Location.* This zone will encompass all waters of Presque Isle Bay, Erie, PA within a 420 foot radius of position 42°08'21.5" N and 80°05'16.7" W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on June 8, 2013, from 9:30 p.m. until 11 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: May 28, 2013.

**S.M. Wischmann,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

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**BILLING CODE 9110-04-P**

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

[EPA-R03-OAR-2012-0955; FRL-9819-6]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia; Removal of Obsolete Regulations and Updates to Citations to State Regulations Due to Recodification**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to remove over fifty rules in the Code of Federal Regulations (CFR) at 40 CFR part 52 for Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia because they are unnecessary or obsolete. EPA is also taking direct final action to clarify regulations in 40 CFR part 52 to reflect updated citations of certain Virginia rules due to the Commonwealth's recodification of its regulations at the state level. These direct final actions make no substantive changes to these State Implementation Plans (SIPs) and impose no new requirements. In the proposed rules section of this **Federal Register**, EPA is also proposing to remove and clarify these regulations and is soliciting public comment. If adverse comments are received on the direct final rule, EPA will withdraw the portions of the final rule that triggered the comments. Any portions of the final rule for which no adverse or critical comment is received will become final after the designated period.

**DATES:** This rule is effective on August 5, 2013 without further notice, unless EPA receives adverse written comment by July 8, 2013. If EPA receives such comments, it will publish a timely withdrawal of that portion of the direct final rule in the **Federal Register** which is adversely commented upon, and inform the public that that portion of the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2012-0955 by one of the following methods:

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

B. *Email:* frankford.harold@epa.gov.

C. *Mail:* EPA-R03-OAR-2012-0955, Harold A. Frankford, 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-2012-0955. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Docket: All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 814-2108, or by email at [frankford.harold@epa.gov](mailto:frankford.harold@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

This action pertains to six subparts in 40 CFR part 52 for six states. Those six states are Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia. EPA is removing rules from these states' subparts of 40 CFR part 52 because they pertain to state regulations that are outdated or legally obsolete in whole or in part. This action is being taken pursuant to Executive Order 13563—*Improving Regulation and Regulatory Review*. One aspect of this action involves an effort to reduce the number of pages in the CFR by identifying those rules in 40 CFR part 52 that are duplicative, outdated or obsolete. This action removes several rules from 40 CFR part 52 that no longer have any use or legal effect because they have been superseded by subsequently approved SIP revisions. This action also amends certain rules by revising incorrect or outdated state regulatory citations and state agencies' office addresses.

One aspect of EPA's action, affecting all six states, removes historical information found in the "Original Identification of plan" sections in 40 CFR part 52. These paragraphs are no longer necessary because EPA has promulgated administrative rule actions to replace these paragraphs with summary tables. These summary tables describe the regulations, source-specific actions, and non-regulatory requirements which comprise the SIPs for the six states. Another aspect of EPA's action, affecting Delaware, the District of Columbia, Maryland, Pennsylvania, and Virginia, removes rules pertaining to regulations that cross-reference the California Low Emission Vehicle (LEV) program in 40 CFR 51.120. These regulations have been replaced with EPA approvals of SIP revisions implementing a National Low Emission Vehicle (NLEV) program. Both of these actions are described in greater detail later in this document.

## II. Removal of Obsolete or Unnecessary Rules and Clarifications to Certain Rules

The following regulations include rules applicable on a state-specific basis. EPA has reviewed these rules and found that they should be removed or clarified for the reasons set forth as follows:

### A. Delaware

#### Section 52.422 Approval status.

In paragraph 52.422(a), the second sentence describes EPA's approval of Delaware's ozone SIP under the requirements of the 1977 Clean Air Act (CAA). This sentence is being removed

because EPA has subsequently approved Delaware SIP revisions for the 1-hour and 8-hour national ambient air quality standards (NAAQS) for ozone under the requirements of the 1990 CAA. See 40 CFR 52.420(c) and (e).

Paragraph 52.422(b) refers to a commitment for Delaware to adopt a Federal clean fuel fleet program or alternative substitute. This paragraph is being removed because the Federal clean fuel fleet program is no longer a SIP requirement.

#### Section 52.432 Significant deterioration of air quality.

Paragraph 52.432(a) is obsolete because Delaware Regulation 1125 for its Prevention of Significant Deterioration (PSD) permitting program has been approved into the Delaware SIP at section 52.420(c). Paragraph 52.432(b) is partially redundant because the reference to 40 CFR 52.21(l)(2) is a duplication of the regulatory requirements of Delaware Regulation 1125, Section 3.10 which has been approved at section 52.420(c). The first sentence of paragraph 52.423(c) is obsolete because Delaware's PSD program is a SIP-approved program under 40 CFR part 51 and not a delegated program of the Federal PSD regulations found at 40 CFR 52.21. The last sentence of paragraph 52.423(c) is being revised to update the address of the office of the Delaware Department of Natural Resources and Environmental Control (DNREC). Therefore, paragraph 52.432(a) is being removed, while paragraphs 52.432(b) and (c) are being revised.

#### Section 52.465 Original identification of plan section.

Paragraphs 52.465(b) and (c) of this section, originally designated as 40 CFR 52.420(b) and (c), contains historical information only about EPA's approval actions for the Delaware SIP which occurred between May 31, 1972 and July 1, 1998. On December 7, 1998 (63 FR 67407), EPA reorganized the Identification of plan section (section 52.420) for subpart I by listing and summarizing Delaware's currently approved SIP requirements in paragraphs 52.420(a) through (e). Paragraphs 52.465(b) and (c) are being removed because EPA has determined that it is no longer necessary to codify the information found in these paragraphs. Paragraph 52.465(a) is being amended to state that this historical information will continue to be made available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url

address: <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

### B. District of Columbia

#### Section 52.472 Approval status.

Section 52.472(b) refers to transportation control measures (TCMs) which EPA had promulgated as part of the District's 1973 SIP revisions for photochemical oxidants and carbon monoxide. This paragraph is being removed because it is obsolete. The 1990 CAA revised TCM requirements. The TCMs that currently are part of the SIP were approved by EPA on September 20, 2011 (76 FR 58116). See 40 CFR 52.470(e). Section 52.472(f) was added as part of EPA's disapproval of the District's nonattainment New Source Review (NSR) program on March 24, 1995 (60 FR 15483). This paragraph is being removed because it is obsolete. The District has a fully approved Nonattainment NSR program (July 31, 1997, 62 FR 40937, as amended on April 16, 2004, 69 FR 77647).

#### Section 52.473 Conditional approval.

On April 17, 2003, (68 FR 19106), EPA conditionally approved the District's ozone nonattainment area SIP for the Metropolitan Washington, DC area. This section is being removed because on April 15, 2004 (69 FR 19937), 40 CFR 52.473 was stayed indefinitely and is no longer necessary to be codified in this subpart.

#### Section 52.479 Source surveillance.

On December 6, 1973 (38 FR 33701), EPA added paragraph 52.479(b) to state that the carpool locator measure of the District's TCM SIP was not approved. This paragraph is obsolete because this TCM is no longer a control strategy required by the 1990 CAA. The TCMs that currently are part of the SIP were approved by EPA on September 20, 2011 (76 FR 58116). Because paragraph 52.479(a) is already reserved, and there are no other paragraphs in Section 52.479, the entire section is being removed.

#### Section 52.515 Original identification of plan section.

Paragraphs 52.515(b) and (c) of this section, originally designated as 40 CFR 52.470(b) and (c), contains historical information only about EPA's approval actions for the District of Columbia SIP which occurred between May 31, 1972 and July 1, 1998. On December 7, 1998 (63 FR 67407), EPA reorganized the Identification of plan section (section 52.470) for subpart J by listing and summarizing the District's currently approved SIP requirements in

paragraphs 52.470(a) through (e). Paragraphs 52.515 (b) and (c) are being removed because EPA has determined that it is no longer necessary to codify the information found in these paragraphs. Paragraph 52.515(a) is being amended to state that this historical information will continue to be made available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

#### C. Maryland

##### Section 52.1072 Conditional approval.

On April 17, 2003, (68 FR 19106), EPA conditionally approved Maryland's ozone nonattainment area SIP for the Metropolitan Washington DC area. This section is being removed because on April 15, 2004 (69 FR 19937), 40 CFR 52.1072 was stayed indefinitely and is no longer necessary to be codified in this subpart.

##### Section 52.1073 Approval status.

On August 12, 1980 (45 FR 53460), paragraph 52.1073(b) was added to describe EPA's approval, with certain exceptions, of Maryland's January 19, 1979 plan for attaining and maintaining the NAAQS under Section 110 and for meeting the requirements of part D, Title 1, of the 1977 CAA. This paragraph also stated, "continued satisfaction of the requirements of part D for the ozone portion of the SIP depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for the sources covered by control technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January." This paragraph is obsolete. It is being removed because all RACT and CTG requirements under the 1977 CAA have been met and the current ozone plan is subject to the requirements of the 1990 CAA. See 40 CFR 52.1070(c).

Paragraph 52.1073(c) describes EPA's approval of Code of Maryland Air Regulations (COMAR) 26.11.13.06. This paragraph is obsolete and is being removed. EPA had added this paragraph as part of a final rulemaking action published on May 24, 1991 (56 FR 23804) at 40 CFR 52.1070(c)(88). Maryland repealed Regulation 26.11.13.06, effective October 26, 1992. On November 13, 1992, Maryland submitted a SIP revision to EPA

requesting the removal of Regulation 26.11.13.06. EPA approved that SIP revision on June 10, 1994 (59 FR 29957).

Paragraph 52.1073(d) refers to a commitment for Maryland to adopt a Federal clean fuel fleet program or alternative substitute. This paragraph is being removed. This paragraph is obsolete because the Federal clean fuel fleet program is no longer a SIP requirement.

##### Section 52.1074 Legal authority.

This section was added to state that Maryland lacked the necessary legal authority to prohibit the disclosure of emission data to the public. EPA has deemed this section to be obsolete and it is being removed. This section should have been removed when EPA approved a revision to COMAR 26.11.01.05 on May 28, 2002 (67 FR 36810).

##### Section 52.1077 Source surveillance.

This section was added to state that the Maryland SIP did not provide specific procedures for stationary sources to be periodically tested. This section is obsolete and is being removed. This section should have been removed as a result of EPA's approval of a revision to COMAR 26.11.01.05 on May 28, 2002 (67 FR 36810).

##### Section 52.1078 Extensions.

In this section, EPA extended the deadline by which Maryland must incorporate mandatory testing of second generation On-board Diagnostics (OBD-II) equipped motor vehicles as part of its inspection and maintenance (I/M) program until July 1, 2002. This section is obsolete and is being removed because Maryland is now implementing the OBD II program as part of its SIP-approved I/M program.

##### Section 52.1100 Original identification of plan section.

Paragraphs 52.1100(b) and (c) of this section, originally designated as 40 CFR 52.1070(b) and (c), contains historical information only about EPA's approval actions for the Maryland SIP which occurred between May 31, 1972 and November 31, 2004. On November 29, 2004 (69 FR 69304), EPA reorganized the Identification of plan section (section 52.1070) for subpart V by listing and summarizing Maryland's currently approved SIP requirements in paragraphs 52.1070(a) through (e). Paragraphs 52.1100(b) and (c) are being removed because EPA has determined that it is no longer necessary to codify the information found in these paragraphs. Paragraph 52.1100(a) is being amended to state that this historical information will continue to

be made available in the CFR annual editions, Title 40 part 52 (years 2005 through 2012). These annual editions are available on line at the following url address: <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

Section 52.1118 Approval of bubbles in nonattainment areas lacking approved demonstrations: State assurances.

This section was added in order to secure approval of a bubble (or plantwide) control strategy for the American Cyanamid facility in Havre de Grace, Maryland. This section is obsolete and is being removed because the bubble for the American Cyanamid Facility was removed from the Maryland SIP, effective November 24, 2006 (October 24, 2006, 71 FR 62210).

#### D. Pennsylvania

##### Section 52.2022 Extensions.

Between May 31, 1972 and February 26, 1985, EPA granted Pennsylvania a series of extensions to attain and maintain the NAAQS for SO<sub>2</sub>, particulate matter (PM), photochemical oxidants, carbon monoxide, and ozone. This entire section is obsolete and is being removed. The latest of these extended dates was December 31, 1987. All of these attainment dates have been superseded by the 1990 CAA and by revised attainment dates for ozone, PM, and SO<sub>2</sub> in response to the issuance of revised NAAQS.

##### Section 52.2023 Approval status.

Paragraph 52.2023(b) describes EPA's approval of Pennsylvania's plan for the attainment and maintenance of the NAAQS and states that the plan satisfies all requirements of part D, Title 1, of the 1977 CAA, with certain exceptions. Pennsylvania subsequently remedied all of the deficiencies which had been codified in paragraphs 52.2033(c) through (k). See 40 CFR 52.2020(c)(1) and (e)(1). Therefore, EPA is revising paragraph 52.2033(b) to remove the words "except as noted below."

Paragraph 52.2023(d) describes EPA's limited approval and limited disapproval action on Pennsylvania's Stage II vapor recovery regulation. This paragraph is obsolete and is being removed because EPA fully approved Pennsylvania's Stage II regulations in subsequent final actions published on December 13, 1995 (60 FR 63937, 63940).

Paragraph 52.2023(e) describes EPA's April 30, 1998 disapproval (63 FR 23668) of Pennsylvania's April 19, 1995 RACT determination for nitrogen oxides

(NO<sub>x</sub>) at the Pennsylvania Power Company's New Castle plant located in Lawrence County, Pennsylvania (Source No. 37-023). This paragraph is obsolete and is being removed. On June 26, 2002 (67 FR 43002), EPA approved Pennsylvania's amended NO<sub>x</sub> RACT determination for this source. See 40 CFR 52.2020(d)(1).

Paragraph 52.2023(j) describes a disapproval action taken by EPA with regard to Pennsylvania's enhanced I/M program. This paragraph is obsolete and is being removed. EPA approved Pennsylvania's enhanced I/M program on June 17, 1999 (64 FR 32411). EPA subsequently approved revisions to Pennsylvania's enhanced I/M program on October 6, 2005 (70 FR 58313). Pennsylvania is implementing a fully approved enhanced I/M program.

#### Section 52.2024 General requirements.

Section 52.2024(a) describes EPA's determination that Pennsylvania had inadequate legal authority to provide for the public availability of emissions data as required by section 110(a)(2)(F) of the CAA and 40 CFR 51.116. In section 52.2024, EPA promulgated a series of measures designed to ensure public access to emissions data. This entire section is obsolete and is being removed. It should have been removed on January 12, 1995 (60 FR 2881) when EPA approved Pennsylvania Regulation 135.21 pertaining to emissions statements.

#### Section 52.2025 Legal authority.

This section describes a SIP deficiency in Philadelphia's Home Rule Charter provision regarding the public right to inspection. On November 28, 1975 (40 FR 55326, 55333), EPA determined that this provision could, in some circumstances, prohibit the disclosure of emission data to the public. However, this section is now obsolete and is being removed. EPA approved Pennsylvania Regulation 135.21 and determined it would apply to the City of Philadelphia as well. See 40 CFR 52.2020(c)(1) and (e)(1).

Sections 52.2030 Source surveillance and 52.2032 Intergovernmental cooperation.

Sections 52.2030 and 52.2032 describe inadequacies which EPA identified regarding the implementation of Pennsylvania's TCMs required under the 1977 CAA. These sections are obsolete and are being removed. EPA has since determined that Pennsylvania has met all of its TCM requirements prescribed by the 1977 and 1990 CAA.

Section 52.2033 Control strategy: Sulfur oxides.

Paragraph 52.2033(a) describes EPA's approval action of the SO<sub>2</sub> control strategy for Allegheny County under the requirements of the 1970 CAA. This paragraph is obsolete and is being removed. It has been superseded by EPA's approval of the SO<sub>2</sub> attainment plan for Allegheny County under the requirements of the 1990 CAA at paragraph 52.2033(c).

Section 52.2034 Attainment dates for national standards.

This section states that Pennsylvania had not submitted a plan for Northumberland County, Snyder County, and Allegheny County, as of December 31, 1979, providing for the attainment and maintenance of the secondary NAAQS for SO<sub>2</sub>. This section is obsolete and is being removed. On November 12, 1985 (50 FR 46649), EPA determined that the SO<sub>2</sub> nonattainment designations for both the primary and secondary NAAQS in both Northumberland and Snyder Counties were based on a modeling error, and that all other criteria for redesignating nonattainment areas to attainment had been met. Therefore, EPA redesignated both counties to attainment. On July 21, 2004 (69 FR 43522), EPA approved the modeled attainment demonstration and maintenance plan to attain and maintain the primary and secondary SO<sub>2</sub> NAAQS in the Hazelwood and Monongahela River Valley areas of Allegheny County.

Section 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.

Paragraph 52.2037(a) describes EPA's conditional approval of Pennsylvania's 1979 carbon monoxide and ozone plans. The conditional approval was based upon Pennsylvania's commitment to implement a commuter rail project or a substitute TCM which would produce equivalent emission reductions. This paragraph is obsolete and is being removed. EPA has since determined that Pennsylvania has met all of its TCM requirements prescribed by the 1990 CAA.

Section 52.2055 Review of new sources and modifications.

Section 52.2055 is obsolete and is being removed. It was created to highlight disapproved portions of the PSD and nonattainment NSR programs. Pennsylvania has a fully approved PSD program and nonattainment NSR program in accordance with current CAA and 40 CFR part 51 requirements.

Section 52.2058 Prevention of significant air quality deterioration.

Paragraph 52.2058(a) is being retained as the SIP status described in this paragraph is still current. However, the address for the office of the Pennsylvania Department of Environmental Protection found in this paragraph is obsolete and is being updated.

Section 52.2059 Control strategy: Particulate matter.

Paragraph 52.2059(a) was added to the CFR on May 20, 1980 (45 FR 33628). It describes a commitment by Pennsylvania to undertake a comprehensive program to investigate non-traditional sources, industrial process fugitive PM emissions, alternative control measures, and to develop and implement an effective control program to attain the primary and secondary NAAQS for total suspended particulates (TSP). This paragraph is obsolete and is being removed. On July 1, 1987 (52 FR 24634), EPA revoked the NAAQS for TSP and promulgated a new NAAQS for PM with a diameter of ten microns or less (PM<sub>10</sub>) in its place. Effective October 14, 2003 (68 FR 53515, September 11, 2003), the entire Commonwealth of Pennsylvania was designated either attainment or unclassified for the PM<sub>10</sub> NAAQS. See 40 CFR 81.339.

Section 52.2063 Original identification of plan section.

Paragraphs 52.2063(b) and (c) of this section, originally designated as 40 CFR 52.2020(b) and (c), contains historical information only about EPA's approval actions for the Pennsylvania SIP, including Allegheny County and the City of Philadelphia, which occurred between May 31, 1972 and February 10, 2005. On February 25, 2005 (70 FR 9450), EPA reorganized the Identification of plan section (section 52.2020) for subpart NN by listing and summarizing Pennsylvania's (including Allegheny and Philadelphia Counties) currently approved SIP requirements in paragraphs 52.2020(a) through (e). Paragraphs 52.2063(b) and (c) are being removed because EPA has determined that it is no longer necessary to codify the information found in these paragraphs. Paragraph 52.2063(a) is being amended to state that this historical information will continue to be made available in the CFR annual editions, Title 40 part 52 (years 2005 through 2012). These annual editions are available on line at the following url address: <http://www.gpo.gov/fdsys/>

*browse/collection*  
*Cfr.action?collectionCode=CFR.*

#### E. Virginia

##### Section 52.2423 Approval status.

The second, third, and fourth sentences of paragraph 52.2423(a) state that Virginia's open burning regulations have been submitted for information purposes only and are not to be considered as a control strategy. These sentences are obsolete and are being removed. Open burning has been a control strategy in the Virginia SIP since March 12, 1997 (62 FR 11332). See 40 CFR 52.2420(c).

Paragraph 52.2423(d) states that a January 11, 1979 SIP submittal pertaining to Smyth County is not approved, pending a possible redesignation of the area to attainment status. The 1-hour ozone nonattainment area in Smyth County consisted of the portion of White Top Mountain above the 4,500 foot elevation. This paragraph is obsolete and is being removed. On April 30, 2004 (69 FR 23858, 23942), all of Smyth County was designated attainment of the 8-hour ozone NAAQS. On August 3, 2005 (70 FR 44470, 44478), the 1-hour ozone NAAQS was revoked for the White Top Mountain area, effective June 15, 2005. On April 29, 2008 (73 FR 23103), EPA approved the 8-hour ozone maintenance plan for Smyth County. See 40 CFR 52.2420(e).

Paragraph 52.5423(e) describes the disapproval of section 4.55(b) of the Virginia regulations because the regulation was not adequately enforceable. This paragraph is obsolete, and is being removed. Section 4.55(b) was never approved as part of the Virginia SIP, and no longer exists as a State regulation.

Paragraph 52.2423(f) describes a situation where a Virginia opacity regulation cited as section 9 VAC 5-40-20.A.3 is not considered part of the applicable plan because it contradicts a previously approved section of the SIP. EPA's assessment is still current. However, in this action EPA is revising this paragraph to add a reference to the current State citation of this opacity regulation (9VAC5-40-20.A.4).

Paragraph 52.2423(g) describes the exclusion of section 4.31(d)(3), a Virginia regulation pertaining to collection efficiency from the Virginia SIP. This paragraph is obsolete and is being removed because section 4.31(d)(3) of Virginia's regulation was never approved as a SIP requirement and no longer exists as a State regulation.

Paragraph 52.2423(j) refers to a commitment for Virginia to adopt a

Federal clean fuel fleet program or alternative substitute. This paragraph is obsolete and is being removed because the Federal clean fuel fleet program is no longer a SIP requirement.

Paragraph 52.2423(k) describes EPA's disapproval of Virginia's November 12, 1992 redesignation request and maintenance plan for the Richmond moderate 1-hour ozone nonattainment area. EPA had disapproved this request and maintenance plan because of monitored ozone violations during the 1993 ozone season. This paragraph is now obsolete and is being removed. EPA subsequently approved the redesignation and 1-hour ozone maintenance plan for the Richmond area on November 17, 1997 (62 FR 61237). See 40 CFR 52.2420(e).

Paragraphs 52.2423(m) and (n) describe EPA's approval actions of Virginia regulations citing documents which Virginia has incorporated by reference. Virginia had submitted these actions in April 12, 1989 and February 12, 1993, respectively. Since that time, Virginia has recodified its regulations. While EPA's approval actions are still current, EPA is amending paragraphs (m) and (n) to add references to the current citations of these approved State regulations.

##### Sections 52.2427 Source surveillance and 52.2433 Intergovernmental cooperation.

Sections 52.2427 and 52.2433 describe inadequacies which EPA identified regarding the implementation of Virginia's TCMs required under the 1970 Clean Air Act. These sections are obsolete and are being removed. EPA has since determined that Virginia has met all of its TCM requirements prescribed by the 1990 CAA. The TCMs that currently are part of the SIP were approved by EPA on September 20, 2011 (76 FR 58116). Virginia also has a fully approved enhanced I/M program for the Northern Virginia Area—9VAC5, Chapter 91, as codified in 40 CFR 52.2420(c), last amended on April 22, 2008 (73 FR 21540).

##### Section 52.2436 Rules and regulations.

This section describes the disapproval of section 4.55(b) of a Virginia regulation because the regulation was not adequately enforceable. See 40 CFR 52.2423(e). This section is obsolete and is being removed because section 4.55(b) no longer exists in Virginia's regulations.

##### Section 52.2450 Conditional approval.

On August 30, 1995 (60 FR 45055), EPA conditionally approved a VOC RACT determination submitted by

Virginia for the Philip Morris Manufacturing Center (No. 50076) located in Richmond, Virginia. This conditional approval is described in paragraph 52.2450(a). On October 14, 1997 (62 FR 53242), EPA fully approved Virginia's revised VOC RACT determination for this same facility at 52.2420(c)(120) which is now codified at 40 CFR 52.2420(d). Therefore, paragraph 52.2450(a) is obsolete and is being removed.

On April 17, 2003, (68 FR 19106), EPA conditionally approved and codified into paragraph 52.2450(b) Virginia's ozone nonattainment area SIP for the Metropolitan Washington DC area, which included the 1996–1999 portion of the rate-of-progress plan. However, on April 15, 2004 (69 FR 19937), 40 CFR 52.2450(b) was stayed indefinitely and is no longer necessary to be codified in this subpart. Therefore, paragraph 52.2450(b) is obsolete and is being removed. Because paragraphs 52.2450(c) through (f) are currently reserved, section 52.2450 is being removed in its entirety.

##### Section 52.2465 Original identification of plan section.

Paragraphs 52.2465(b) and (c) of this section, originally designated as 40 CFR 52.2420(b) and (c), contains historical information only about EPA's approval actions for the Virginia SIP which occurred between May 31, 1972 and March 1, 2000. On April 21, 2000 (65 FR 21315), EPA reorganized the Identification of plan section (section 52.2420) for subpart VV by listing and summarizing Virginia's currently approved SIP requirements in paragraphs 52.2420(a) through (e). Paragraphs 52.2465(b) and (c) are being removed because EPA has determined that it is no longer necessary to codify the information found in these paragraphs. Paragraph 52.2465(a) is being amended to state that this historical information will continue to be made available in the CFR annual editions, Title 40 part 52 (years 2000 through 2012). These annual editions are available on line at the following url address: <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

#### F. West Virginia

##### Section 52.2522 Approval status.

In paragraph 52.2522(a), EPA states that deletion of the provisions found in section 3.03(b) of Regulation X, adopted in 1972 and amended in 1978, has been approved, except for an SO<sub>2</sub> emission limitation for the Rivesville Power Station. This paragraph is obsolete and

is being removed because section 3.3.b. of the current Regulation X (45CSR10) containing that SO<sub>2</sub> emission limitation for the Rivesville Power Station was approved by EPA on June 3, 2003 (68 FR 33002). See 40 CFR 52.2520(c).

In paragraph 52.2522(b), EPA states that the interim limitation of 5.12 lbs. of SO<sub>2</sub> per million BTU for the Harrison power plant is approved until a permanent emission limitation is approved. This paragraph is obsolete and is being removed because Section 3.3.a. of the current Regulation X (45CSR10) includes a permanent SO<sub>2</sub> emission limitation for the Harrison Power Plant which was approved as a SIP revision on June 3, 2003 (68 FR 33002). See 40 CFR 52.2520(c).

In paragraph 52.2522(c), EPA states that West Virginia's control strategy for attainment and maintenance of the secondary NAAQS for SO<sub>2</sub> is not approved as it applies to the Mitchell Power Station located in Marshall County, and the Harrison Power Station located in Harrison County. This paragraph is obsolete and is being removed. Since 1978, when the part 81 attainment designations were first established under section 107 of the CAA, both Marshall and Harrison Counties have been designated attainment for the secondary NAAQS for SO<sub>2</sub>. EPA has also reviewed the ambient data of the secondary NAAQS for SO<sub>2</sub> recorded since January 1996 for these counties, and has found no violations in either county.

Paragraph 52.2522(h) describes a series of deficiencies to West Virginia minor new source permitting regulation (45CSR13) as submitted by West Virginia on August 26, 1994. This paragraph is obsolete and is being removed. On February 8, 2007 (72 FR 5932), EPA fully approved the provisions of West Virginia Regulation 45CSR13. See 40 CFR 52.2520(c). As a result, all of the deficiencies mentioned in paragraph 52.2522(h) have been corrected.

**Section 52.2523 Attainment dates for national standards.**

Section 52.2523 states that The New Manchester and Grant Magisterial Districts in Hancock County are expected to attain and maintain the secondary NAAQS for SO<sub>2</sub> as soon as the Sammis Power Plant, located in Jefferson County, Ohio, meets the SO<sub>2</sub> emission limitations in the Ohio Implementation Plan. This section is obsolete and is being removed. EPA has subsequently determined that the Sammis Plant is currently meeting the Ohio SIP's emissions limits. In addition, on June 8, 2005 (70 FR 33364), EPA

redesignated the New Manchester-Grant Magisterial District in part 81 as "Better than National Standards" for the NAAQS for SO<sub>2</sub> and approved the maintenance plan, effective August 8, 2005. See 40 CFR 81.349.

**Section 52.2524 Compliance schedules.**

Sections 52.2524(a) and (b) were promulgated on June 20, 1973 (38 FR 16144, 16170) and August 23, 1973 (38 FR 22736), respectively. At this time there were issues as to whether plants could comply with SIP approved emission standards for SO<sub>2</sub> because of a lack of available low-sulfur coal and the availability of air pollution control equipment. These regulations set forth compliance schedules by which boilers or furnaces of more than 250 million Btu per hour heat input subject to the emission limitation requirements in West Virginia Regulation X must come into compliance with the applicable emission limitations for SO<sub>2</sub>. This section is obsolete. The dates listed in this compliance schedule have long since passed, and the SIP regulatory citation for West Virginia's SO<sub>2</sub> control regulation has changed from Regulation X to Regulation 45CSR10. In addition, the emission limitations of Sections 3.01 and 3.03 (currently Section 45-10-3) have been revised. See November 9, 1978, 43 FR 52239 and June 3, 2003, 68 FR 33002. EPA, West Virginia, and several power companies have also entered into Federal consent decrees that specify control strategies, including flue gas desulfurization (FGD) and source shutdowns, which would assist compliance with the requirements of Regulation 45CSR10. An October 3, 2003 Federal Consent Decree between EPA and the Virginia Electric and Power Company (VEPCO) establishes compliance schedules for Units 1, 2, and 3 of the Mount Storm Power Station, and a December 7, 2007 Federal consent decree between EPA and the American Electric Power Service Corporation (AEP) establish compliance schedules for installing FGD at the Amos, Kanawha River, Kammer, Mitchell, Mountaineer, and Sporn Power Stations. Given that the compliance dates and regulation citations in section 52.2524 have been updated either in the SIP or by the 2003 and 2007 Federal consent decrees, section 52.2524 is being removed.

**Section 52.2525 Control strategy: Sulfur dioxide.**

Paragraph 52.2525(a) is obsolete and is being removed. As explained previously in this action, the SO<sub>2</sub> emission limit for the Rivesville Power

Station, established in 1972, has since been approved by EPA on June 3, 2003 (68 FR 33002). See 40 CFR 52.2520(c). Since 1978, when the part 81 attainment designations were first established under section 107 of the CAA, the area in which this power plant is located (Marion County) has been designated attainment for the primary and secondary NAAQS for SO<sub>2</sub>. EPA has also reviewed the ambient data of the secondary SO<sub>2</sub> NAAQS and has found that no violations have been recorded since January 1996.

**Section 52.2528 Significant deterioration of air quality.**

Paragraph 52.2528(b) describes portions of the Federal PSD regulation (40CFR 52.21) which are incorporated and made a part of the West Virginia SIP. This paragraph is redundant and is being removed because these measures duplicate the regulatory requirements of West Virginia Regulation 45CSR14, which is incorporated by reference at Section 52.2520(c).

**Section 52.2565 Original identification of plan.**

Paragraphs 52.2565(b) and (c) of this section, originally designated as 40 CFR 52.2520(b) and (c), contains historical information only about EPA's approval actions for the West Virginia SIP which occurred between May 31, 1972 and December 1, 2004. On February 10, 2005 (70 FR 7024), EPA reorganized the Identification of plan section (section 52.2520) for subpart XX by listing and summarizing West Virginia's currently approved SIP requirements in paragraphs 52.2520(a) through (e). Paragraphs 52.2565(b) and (c) are being removed because EPA has determined that it is no longer necessary to codify the information found in these paragraphs. Paragraph 52.2565(a) is being amended to state that this historical information will continue to be made available in the CFR annual editions, Title 40 part 52 (years 2005 through 2012). These annual editions are available on line at the following url address: <http://www.gpo.gov/fdsys/browse/collection>  
*Cfr.action?collectionCode=CFR.*

**G. Multistate Removal Actions Affected by the National Low Emission Vehicle Program**

On January 24, 1995 (60 FR 4712), EPA promulgated 40 CFR 51.120, which established a "SIP call" mandating a LEV program, based on California's motor vehicle emissions, which would provide air pollutant emissions reductions for states located on the Ozone Transport Region (OTR). See,

CAA sections 177 and 184. The following OTR states are located in EPA region III: Delaware, the District of Columbia, Maryland, Pennsylvania, and the portion of Virginia that was included in the Consolidated Metropolitan Statistical Area (CMSA) for Washington, DC as of November 15, 1990. For each of these States' part 52 subparts, EPA added CFR regulations which cross-reference 40 CFR 52.120. The respective sections are: 52.433, 52.498, 52.1079, 52.2057, and 52.2453. However, on March 11, 1997, the U.S. Court of Appeals for the D.C. Circuit vacated the provisions of 40 CFR 51.20. See, *Virginia v. EPA*, 108 F.3d 1397 (D.C. Cir. Ct. of Appeals, 1997; rehearing denied June 13, 1997).

Subsequently, the EPA Region III States located in the OTR adopted a similar program known as the NLEV program, a collaborative effort of EPA, the OTC States, the automobile manufacturers, and others that would achieve emissions reductions equal to or greater than would be accomplished if the OTC States adopted the California LEV program under the authority of CAA section 177. Under the NLEV program, the States achieved the reductions the SIP call would have required. Therefore, EPA approved their respective NLEV SIP revisions on the following dates: December 28, 1999 (64 FR 72564) for Delaware, Maryland, Pennsylvania, and Virginia; and July 20, 2000 (65 FR 44981 for the District of Columbia. See 40 CFR 52.420(c), 52.1070(c), 52.2020(c)(1), 52.2420(c), and 52.470(c) respectively.

As a result of the Court's vacatur action and of EPA's subsequent approvals of the OTR States' NLEV programs, EPA has deemed sections 52.433, 52.498, 52.1079, 52.2057, and 52.2453 to be legally obsolete. In today's action, these five sections are being removed from the CFR.

It should be noted that since February 10, 2000 (65 FR 6698), the NLEV program has been superseded by EPA's issuance of a final rule promulgating Federal Tier 2 vehicle emission and fuel standards. This Federal Tier 2 program provides for stricter new vehicle emissions standards than that of the NLEV program, beginning with the phase-in of that program in model year 2004. Additionally, the Federal Tier 2 program was fully in place and was mandatory for all new subject vehicles on a national basis in model year 2006. At that time, the NLEV program ceased to exist for all states, and states' participation in the National NLEV ceased with the 2006 model year.

### III. Final Action

EPA has determined that the above-referenced rules should be removed or revised at this time. 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 August 5, 2013 without further notice unless EPA receives adverse comment by July 8, 2013. 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.

### IV. Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, 109 Stat. 48 (1995)). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on

one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

#### 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 August 5, 2013. 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 which removes or revises outdated or obsolete part 52 language for Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental Protection Agency, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 16, 2013.

W.C. Early,

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 I—Delaware

- 2. Section 52.422 (a) is revised to read as follows:

##### § 52.422 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Delaware’s plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act.

Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

(b) [Reserved]

- 3. Section 52.432 is revised to read as follows:

##### § 52.432 Significant deterioration of air quality.

(a) [Reserved]

(b) Regulation for preventing significant deterioration of air quality. The provisions of 52.21(p) are hereby incorporated and made a part of the applicable State plan for the State of Delaware.

(c) All applications submitted as of that date and supporting information required pursuant to § 52.21 from sources located in the State of Delaware shall be submitted to: Delaware Department of Natural Resources and Environmental Control, Air Resources Section, Division of Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

##### § 52.433 [Removed and reserved]

- 4. Section 52.433 is removed and reserved.

- 5. Section 52.465 is revised to read as follows:

##### § 52.465 Original identification of plan section.

(a) This section identifies the original “Air Implementation Plan for the State of Delaware” and all revisions submitted by Delaware that were federally approved prior to July 1, 1998. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) editions revised as of July 1, 2012.

(b) [Reserved]

#### Subpart J—District of Columbia

##### § 52.472 [Amended]

- 6. In § 52.472, paragraphs (b) and (f) are removed and reserved.

##### § 52.473 [Removed and reserved]

- 7. Section 52.473 is removed and reserved.

##### § 52.479 [Removed and reserved]

- 8. Section 52.479 is removed and reserved.

##### § 52.498 [Removed and reserved]

- 9. Section 52.498 is removed and reserved.

- 10. Section 52.515 is revised to read as follows:

##### § 52.515 Original identification of plan section.

(a) This section identifies the original “Air Implementation Plan for the District of Columbia” and all revisions submitted by the District of Columbia that were federally approved prior to July 1, 1998. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) edition revised as of July 1, 2012.

(b) [Reserved]

#### Subpart V—Maryland

##### § 52.1072 [Removed and reserved]

- 11. Section 52.1072 is removed and reserved.

##### § 52.1073 [Amended]

- 12. In § 52.1073, paragraphs (b), (c), and (d) are removed and reserved.

##### § 52.1074 [Removed and reserved]

- 13. Section 52.1074 is removed and reserved.

##### § 52.1077 [Removed and reserved]

- 14. Section 52.1077 is removed and reserved.

##### § 52.1078 [Removed and reserved]

- 15. Section 52.1078 is removed and reserved.

##### § 52.1079 [Removed and reserved]

- 16. Section 52.1079 is removed and reserved.
- 17. Section 52.1100 is revised to read as follows:

##### § 52.1100 Original identification of plan section.

(a) This section identifies the original “Air Implementation Plan for the State of Maryland” and all revisions submitted by Maryland that were federally approved prior to November 1, 2004. The information in this section is available in the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to the end of part 52) editions revised as of July 1, 2005 through July 1, 2011, and the 40 CFR, part 52, Volume 2 of 3 (§§ 52.1019 to 52.2019) edition revised as of July 1, 2012.

(b) [Reserved]

##### § 52.1118 [Removed and reserved]

- 19. Section 52.1118 is removed and reserved.

**Subpart NN—Pennsylvania****§ 52.2022 [Removed and reserved]**

■ 20. Section 52.2022 is removed and reserved.

■ 21. In § 52.2023, paragraphs (d), (e), and (j) are removed and reserved, and paragraph (b) is revised to read as follows:

**§ 52.2023 Approval status.**

\* \* \* \* \*

(b) With the exceptions set forth in this subpart, the Administrator approves Pennsylvania's plan for the attainment and maintenance of the national ambient air quality standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, Title 1, of the Clean Air Act as amended in 1977.

**§ 52.2024 [Removed and reserved]**

■ 22. Section 52.2024 is removed and reserved.

**§ 52.2025 [Removed and reserved]**

■ 23. Section 52.2025 is removed and reserved.

**§ 52.2030 [Removed and reserved]**

■ 24. Section 52.2030 is removed and reserved.

**§ 52.2032 [Removed and reserved]**

■ 25. Section 52.2032 is removed and reserved.

**§ 52.2033 [Amended]**

■ 26. In § 52.2033, paragraph (a) is removed and reserved.

**§ 52.2034 [Removed and reserved]**

■ 27. Section 52.2034 is removed and reserved.

**§ 52.2037 [Amended]**

■ 28. In § 52.2037, paragraph (a) is removed and reserved.

**§ 52.2055 [Removed and reserved]**

■ 29. Section 52.2055 is removed and reserved.

**§ 52.2057 [Removed and reserved]**

■ 30. Section 52.2057 is removed and reserved.  
 ■ 31. Section 52.2058 is revised to read as follows.

**§ 52.2058 Prevention of significant air quality deterioration.**

(a) The requirements of sections 160 through 165 of the Clean Air Act are met by the regulations (25 PA Code § 127.81 through 127.83) adopted by the Pennsylvania Environmental Resources on October 28, 1983. All PSD permit

applications and requests for modifications thereto should be submitted to: Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. ATTN: Abatement and Compliance Division.

(b) [Reserved]

**§ 52.2059 [Amended]**

■ 32. In § 52.2059, paragraph (a) is removed and reserved.

■ 33. Section 52.2063 (a) is revised to read as follows:

**§ 52.2063 Original identification of plan section.**

(a) This section identifies the original "Air Implementation Plan for the Commonwealth of Pennsylvania" and all revisions submitted by Pennsylvania that were federally approved prior to February 10, 2005. The information in this section is available in the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to the end of part 52) editions revised as of July 1, 2005 through July 1, 2011, and the 40 CFR, part 52, Volume 3 of 3 (§§ 52.2020 to the end of part 52) edition revised as of July 1, 2012.

(b) [Reserved]

**Subpart VV—Virginia**

■ 34. In § 52.2423, paragraphs (d), (e), (g), (j), and (k) are removed and reserved, and paragraphs (a), (f), (m), and (n) are revised to read as follows:

**§ 52.2423 Approval status.**

(a) With the exceptions set forth in this subpart, the Administrator approves Virginia's plan for the attainment and maintenance of the national standards.

\* \* \* \* \*

(f) Section 9VAC 5–40–20.A.4. of the Virginia Regulations for the Control and Abatement of Air Pollution is not considered part of the applicable plan because it contradicts a previously approved section of the SIP.

\* \* \* \* \*

(m) EPA approves as part of the Virginia State Implementation Plan the documents listed in Appendix M, Sections II.A. through II.E and Section II.G. (currently Regulation 5–20–21 E.1. through E.5 and E.7) of the Virginia Regulations for the Control and Abatement of Air Pollution submitted by the Virginia Department of Air Pollution Control on April 12, 1989.

(n) EPA approves as part of the Virginia State Implementation Plan the revised references to the documents listed in Appendix M, Sections II.A. and II.B. (currently Regulation 5–20–21E.1 and E.2) of the Virginia Regulations for

the Control and Abatement of Air Pollution submitted by the Virginia Department of Air Pollution Control on February 12, 1993.

\* \* \* \* \*

**§ 52.2427 [Removed and reserved]**

■ 35. Section 52.2427 is removed and reserved.

**§ 52.2433 [Removed and reserved]**

■ 36. Section 52.2433 is removed and reserved.

**§ 52.2436 [Removed and reserved]**

■ 37. Section 52.2436 is removed and reserved.

**§ 52.2450 [Removed and reserved]**

■ 38. Section 52.2450 is removed and reserved.

**§ 52.2453 [Removed and reserved]**

■ 39. Section 52.2453 is removed and reserved.

■ 40. Section 52.2465 is revised to read as follows:

**§ 52.2465 Original identification of plan section.**

(a) This section identifies the original "Air Implementation Plan for the Commonwealth of Virginia" and all revisions submitted by Virginia that were federally approved prior to March 1, 2000. The information in this section is available in the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to the end of part 52) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 3 of 3 (§§ 52.2020 to the end of part 52) edition revised as of July 1, 2012.

(b) [Reserved]

**Subpart XX—West Virginia****§ 52.2522 [Amended]**

■ 41. In § 52.2522, paragraphs (a), (b), (c), and (h) are removed and reserved.

**§ 52.2523 [Removed and reserved]**

■ 42. Section 52.2523 is removed and reserved.

**§ 52.2524 [Removed and reserved]**

■ 43. Section 52.2524 is removed and reserved.

**§ 52.2525 [Amended]**

■ 44. In § 52.2525, paragraph (a) is removed and reserved.

**§ 52.2528 [Amended]**

■ 45. In § 52.2528, paragraph (b) is removed and reserved.

■ 46. Section 52.2565 is revised to read as follows:

**§ 52.2565 Original identification of plan section.**

(a) This section identifies the original “Air Implementation Plan for the State of West Virginia” and all revisions submitted by West Virginia that were federally approved prior to December 1, 2004. The information in this section is available in the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to the end of part 52) editions revised as of July 1, 2005 through July 1, 2011, and the 40 CFR, part 52, Volume 3 of 3 (§§ 52.2020 to the end of part 52) edition revised as of July 1, 2012.

(b) [Reserved]

[FR Doc. 2013-13353 Filed 6-5-13; 8:45 am]

BILLING CODE 6560-50-P

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**ENVIRONMENTAL PROTECTION AGENCY**
**40 CFR Part 271**

[EPA-R05-RCRA-2012-0377; FRL-9817-9]

**Indiana: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is granting the State of Indiana final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on October 9, 2012, and provided for public comment. EPA received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization.

**DATES:** The final authorization will be effective on June 6, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R05-RCRA-2012-0377. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some of the 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy. You may view and copy Indiana's application from 9:00 a.m. to 4:00 p.m. at the following addresses: U.S. EPA Region 5, LR-8J, 77 West Jackson

Boulevard, Chicago, Illinois 60604, contact: Gary Westefer (312) 886-7450; or Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana 46204, contact: Dan Watts (317) 234-5345.

**FOR FURTHER INFORMATION CONTACT:** Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450, email [westefer.gary@epa.gov](mailto:westefer.gary@epa.gov).

**SUPPLEMENTARY INFORMATION:**
**A. Why are revisions to state programs necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and request EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What decisions have we made in this final rule?**

We conclude that Indiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Indiana final authorization to operate its hazardous waste program with the changes described in the authorization application. Indiana will have responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Indiana, including issuing permits, until the state is granted authorization to do so.

**C. What is the effect of this final rule?**

This final rule requires all facilities in Indiana that are subject to RCRA to comply with the newly-authorized state requirements instead of the equivalent Federal requirements. Indiana has enforcement responsibilities under its state hazardous waste program for RCRA violations, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include among others, authorize EPA to:

1. Do inspections, and require monitoring, tests, analyses, or reports;
1. enforce RCRA requirements and suspend or revoke permits; and
3. take enforcement actions regardless of whether the state has taken its own actions.

This action will not impose additional requirements on the regulated community because the regulations that EPA is authorizing in this action are already in effect, and will not be changed by this action.

**D. Proposed Rule**

On October 9, 2012 (77 FR 61326), EPA proposed to authorize changes to Indiana's hazardous waste program and opened the decision to public comment. The Agency received no comments on this proposal. EPA found Indiana's RCRA program to be satisfactory.

**E. What RCRA authorization has EPA previously granted Indiana to implement?**

Indiana initially received Final Authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 31, 1986, effective December 31, 1986 (51 FR 39752); January 5, 1988, effective January 19, 1988 (53 FR 128); July 13, 1989, effective September 11, 1989 (54 FR 29557); July 23, 1991, effective September 23, 1991 (56 FR 33717); July 24, 1991, effective September 23, 1991 (56 FR 33866); July 29, 1991, effective September 27, 1991 (56 FR 35831); July 30, 1991, effective September 30, 1991 (56 FR 36010); August 20, 1996, effective October 21, 1996 (61 FR 43018); September 1, 1999, effective November 30, 1999 (64 FR 47692); January 4, 2001, effective January 4, 2001 (66 FR 733); December 6, 2001 effective December 6, 2001 (66 FR 63331); October 29, 2004, effective October 29, 2004 (69 FR 63100); and November 23, 2005 effective November 23, 2005 (70 FR 70740).