category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishment of a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

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. 1226, 1231; 46 U.S.C. Chapter 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.T11–405 to read as follows:

§ 165.T11–405 Safety zone; Sea World Fireworks; Mission Bay, San Diego, CA.

(a) *Location.* The safety zone will include the area within 600 feet of the fireworks barge in approximate position 32°46′03″ N, 117°13′11″ W.

(b) *Enforcement Period.* This section will only be enforced from 8:45 p.m. to 10:15 p.m. on evenings with a fireworks show. Fireworks shows are currently scheduled for the following dates in 2011: April 2, 9, 16 and 23, May 28, 29 and 30, June 4 and 5, 11 and 12, nightly from June 16 through August 21, August 26, 27, and 28, September 3, 4, and 5, November 18, December 9 and 31. If this schedule changes the Coast Guard will announce that fact via Broadcast Notice to Mariners no less than 24 hours before the event. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, or federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) In accordance with general regulations in 33 CFR Part 165, Subpart C, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Command Center. The Command Center may be contacted on VHF–FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: April 1, 2011.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2011–9893 Filed 4–22–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0882; FRL–9298–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Adoption of the Revised Lead Standards and Related Reference Conditions and Update of Appendices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The revisions add the primary and secondary lead standards of 0.15 micrograms per cubic meter (μg/m³), related reference conditions, and update the list of appendices under "Documents Incorporated by Reference." Virginia's SIP revisions for the National Ambient Air Quality Standards (NAAQS) for lead are consistent with the Federal lead standards. This action is being taken under the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on May 25, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0882. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection 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 submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by e-mail at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 26, 2011 (76 FR 4579), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of Virginia's SIP revision pertaining to the NAAQS for lead and related reference conditions. The CAA specifies that EPA must re-evaluate the appropriateness of the NAAQS every five years. As part of the process, EPA reviewed the latest research and determined that revised standards for lead were necessary to protect public health and welfare. EPA revised the level of the primary lead standard to a level of 0.15 μg/m³ to provide increased protection for children and other "at risk" populations. The secondary standard was also revised to a level of 0.15 μg/m³ to afford increased protection for the environment. EPA promulgated the more stringent primary and secondary NAAQS for lead on November 12, 2008 (73 FR 66964). One adverse comment was submitted on EPA's January 26, 2011 NPR (76 FR 4579). A summary of the comment and EPA's response is provided in section IV of this document.

II. Summary of SIP Revision

On September 27, 2010, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of an amendment which includes the revised primary and secondary NAAQS for lead and related reference conditions. Virginia's revision incorporates the Federal lead standards

into the Code of Virginia (9VAC5 Chapter 30). In addition, the list of appendices to 40 CFR Part 51 was updated under "Documents Incorporated by Reference" (9VAC5–20–21).

The following are the specific sections that are being modified or amended:

- 9VAC5–20–21: Documents Incorporated by Reference (modified)
- 9VAC5–30–15: Reference Conditions (modified)
- 9VAC5–30–80: Lead (amended)

III. 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 (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 Sec. 10.1–1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *." The opinion concludes that "[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that "[t]o the extent consistent with requirements imposed by Federal law," any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity." Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. As noted below, EPA received one comment on the NPR and it was not germane.

IV. Summary of Public Comments and EPA Responses

Comment: A small business owner expressed concern about having additional costs imposed upon individuals who work on lead paint-containing homes built before 1978. The commenter stated that the business climate cannot support another regulation and expressed concern about being able to remain in business with the adoption of this rule.

Response: This comment is not relevant to this rulemaking action. The commenter discusses lead as it relates to lead-containing paints and the requirement for its removal in homes built prior to 1978. This action imposes no requirements with respect to the removal of lead-containing paint from homes built prior to 1978. This action is concerned with the adoption of the 2008 lead NAAQS by the Commonwealth of Virginia into the Commonwealth's SIP.

V. Final Action

EPA is approving Virginia's SIP revision for the lead NAAQS and related reference conditions, as well as the updated list of appendices to 40 CFR part 51 under documents incorporated by reference.

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 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.

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 June 24, 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. This action pertaining to Virginia's adoption of the revised lead standards of 0.15 μg/m^3 and related reference conditions 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, Lead, Reporting and recordkeeping requirements.

Dated: April 6, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR 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 revising the entries for Sections 5–30–15 and 5–30–80. The table in paragraph (e) is amended by adding an entry for "Documents Incorporated by Reference" after the ninth existing entry for "Documents Incorporated by Reference." The amendments read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
9 VAC 5, Chapter 30 Ambient Air Quality Standards [Part III]				
*	*	*	*	*
5–30–15	Reference conditions	6/24/09	4/25/11 [Insert page number where the document begins].	Revised section.
*	*	*	*	*
5–30–80	Lead	6/24/09	4/25/11 [Insert page number where the document begins].	Amended paragraphs A. and B.; added paragraph C.
*	*	*	*	*

* * * * *

(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, Sections E.1.a.(1)(q) and E.1.a.(1)(r)).	Statewide	9/27/10	4/25/11 [Insert page number where the document begins].	Revised sections.
*	*	*	*	*

* * * * *

[FR Doc. 2011–9697 Filed 4–22–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC–200906; FRL–9286–2]

Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is publishing this action to provide the public with notice of the update to the South Carolina State Implementation Plan (SIP) compilation. In particular, materials submitted by South Carolina that are incorporated by reference (IBR) into the South Carolina SIP are being updated to reflect EPA-approved revisions to South Carolina's SIP that have occurred since the last update. In this action, EPA is also notifying the public of the correction of certain typographical errors.

DATES: This action is effective April 25, 2011.

ADDRESSES: SIP materials which are incorporated by reference into 40 Code of Federal Regulations (CFR) part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566–1742. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

FOR FURTHER INFORMATION CONTACT: Ms. Nacosta C. Ward at the above Region 4 address or at (404) 562–9140. Ms. Ward may also be contacted via electronic mail at: *ward.nacosta@epa.gov*.

SUPPLEMENTARY INFORMATION: Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the SIP to EPA. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52 "Approval and Promulgation of Implementation Plans," Title 40 of the CFR (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is "incorporated by reference." This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference, into the CFR, materials submitted by states in their EPA-approved SIP revisions. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing EPA approval of revisions to a SIP, and streamlined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain "SIP Compilations" that contain the federally approved regulations and source specific permits submitted by each state agency. These SIP Compilations are contained in 3-ring binders and are updated primarily on an annual basis. Under the revised procedures, EPA is to periodically publish an informational document in the rules section of the **Federal Register** when updates are made to a SIP Compilation for a particular state. EPA's 1997 revised procedures were formally applied to South Carolina on July 1, 1997 (62 FR 35441).

This action represents EPA's publication of the South Carolina SIP Compilation update, appearing in 40 CFR part 52. In addition, notice is provided for the following typographical corrections to Tables (c), (d), and (e) of paragraph 52.2120, as described below:

1. Correcting typographical errors listed in paragraphs 52.2120(c), (d), and (e) removing all periods after the **Federal Register** notice citation.
2. Revising the date format listed in paragraphs 52.2120(c), (d), and (e). Revise the date format in the "state effective date," and "EPA approval date," columns for consistency. Dates are numerical month/day/year without additional zeros.
3. Restoring all missing entries in table (e).
4. In paragraph (c), the following revisions:
a. Capitalizing the word "subject" in the column header "Title/Subject;"
b. Underlining the words "*Federal*" and "*Register*" and capitalizing the letter "r" in the word "register" in the column entitled "**Federal Register** notice" for consistency within the paragraph and the **Federal Register** rulemakings.
c. Revising the format of paragraph (c) by removing the second entry of "Regulation No. 62.1 Definitions and General Requirements" and creating rows for all Parts contained in Regulation 62.5, Standard No. 5, Volatile Organic Compounds, "Section I—General Provisions" and "Section II—Provisions for Specific Sources."
d. Inserting the "State effective date," "EPA approval date," and "**Federal Register** notice" citation to read in the correct columns for Regulation No. 62.2 "Prohibition of Open Burning."
e. Correcting the "Title/Subject" under Regulation 62.5 for:
i. Standard No. 1, "Section II—Particulate Matter Emissions;"
ii. Standard No. 5, "Section II—Provisions for Specific Sources"
1. Part C—Surface Coating of Paper, Vinyl, and Fabric
2. Part D—Surface Coating of Metal Furniture, and Large Appliances
3. Part F—Surface Coating of Miscellaneous Metal Parts and Products;"
f. correcting the "State effective date" for:
i. Regulation 62.3 "Section II—Emission Reduction Requirements;"
ii. Regulation 62.5, Standard No. 1—Emissions from Fuel Burning Operations
1. "Section II—Particulate Matter Emissions"
2. "Section IV—Opacity Monitoring Requirements"
3. "Section V—Exemptions;"
iii. Regulation 62.5, Standard No. 4—Emissions from Process Industries
1. "Section I—General"
2. "Section II—Sulfuric Acid Manufacturing"
3. "Section III—Kraft Pulp and Paper Manufacturing Plants''
4. "Section IV—Portland Cement Manufacturing"
5. "Section VI—Hot Mix Asphalt Manufacturing"
6. "Section VII—Metal Refining;"