TABLE 5.—EPA-APPROVED NASHVILLE-DAVIDSON COUNTY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	* *	*	* *	*
Regulation No. 8	Regulation of Emissions from Light-Duty Motor Vehicles Through Mandatory Vehicle Inspection and Maintenance Program.	4/12/05	January 3, 2006. [Insert first page of publication].	
*	* *	*	* *	*

* * * * * (e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
*	* *	*	* *	*
Nashville 1–Hour Ozone Maintenance Plan.	Nashville 1–Hour Ozone Maintenance Area.	June 11, 2005.	January 3, 2006 [Insert first page number of publication].	

[FR Doc. 05–24413 Filed 12–30–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2005–VA–0013; FRL–8012–3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Shenandoah National Park Ozone Nonattainment Area To Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The Virginia Department of Environmental Quality (VADEQ) is requesting that the Shenandoah National Park area (the SNP area) be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the SNP area that provides for continued attainment of the 8-hour ozone NAAQS for the next 10 years. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the 8-hour maintenance plan for the SNP area for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the Virginia SIP in accordance with the requirements of the CAA.

DATES: *Effective Date:* This final rule is effective on February 2, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2005–VA–0013. All documents in the docket are listed in the *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 *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: Amy Caprio, (215) 814–2156, or by e-mail at *caprio.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 4, 2005 (70 FR 67109), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of Virginia's redesignation request and a SIP revision that establishes a maintenance plan for the SNP area that sets forth how the SNP area will maintain attainment of the 8-hour ozone NAAQS for the next 10 years. The formal SIP revision was submitted by the VADEQ on September 21, 2005 and September 23, 2005. Other specific requirements of Virginia's redesignation request SIP revision for the maintenance plan, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No adverse public comments were received on the NPR.

II. 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 Clean Air Act, 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 Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

III. Final Action

EPA is approving the Commonwealth of Virginia's September 21, 2005 redesignation request and September 23, 2005 maintenance plan because the requirements for approval have been satisfied. EPA has evaluated Virginia's redesignation request, submitted on September 21, 2005, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the SNP area has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the SNP area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for this area, submitted on September 23, 2005, as a revision to the Virginia SIP. EPA is approving the maintenance plan for the SNP area because it meets the requirements of section 175A. EPA is also approving the MVEBs submitted by Virginia for this area in conjunction with its redesignation request. The SNP area is subject to the CAA's requirements for basic ozone nonattainment areas until and unless it is redesignated to attainment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed 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), because it merely proposes to affect the status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for

failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed 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. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) 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.

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 rule 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.** This rule 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 6, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, to approve the redesignation request, maintenance plan and adequacy determination for MVEBs for the SNP area, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: December 13, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (e) is amended by adding an entry for the 8–Hour Ozone Maintenance Plan, Madison & Page Cos. (Shenandoah NP), VA Area at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*	* *	*	*
8-Hour Ozone Maintenance Plan for the Madison & Page Cos. (Shenandoah NP), VA Area.	Madison County (part) and Page County (part).	9/23/05	1/3/06 [Insert page number where the document begins].	

PART 81—[AMENDED]

■ 1. The authority citation for Part 81 continues to read as follows:

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

■ 2. Section 81.347 is amended by revising the ozone table entry for the Madison & Page Cos. (Shenandoah NP), VA Area to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA—OZONE (8-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Madison & Page Cos. (Shenandoah NP), VA Area:				
Madison County (part)	1/3/06	Attainment		
Page County (part)	1/3/06	Attainment		
* * *	*	*	*	*

[1] This date is June 15, 2004, unless otherwise noted.

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[FR Doc. 05–24364 Filed 12–30–05; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 041029298–5343–06; I.D. 091505E]

RIN 0648–AS38

Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Pacific Coast Groundfish Fishery; California, Washington, and Oregon Fisheries for Coastal Dungeness Crab and Pink Shrimp; Industry Fee Collection System for Fishing Capacity Reduction Loan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS publishes this final rule to clarify that the fee regulations for the Pacific Coast groundfish fishing capacity reduction program do not apply to any shrimp landed under Washington State fishing licenses for Puget Sound shrimp. The fee regulations remain otherwise unchanged. The purpose of this final rule is to clarify that the fee rules do not apply to the Puget Sound licenses.

DATES: This final rule is effective January 3, 2006.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable, Financial Services Division, NMFS headquarters, at 301–713–2390.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the Office of the **Federal Register**'s website at *http://www.access.gpo.gov/su-docs/aces/aces140.html*.

Background

Section 312(b)-(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b) through (e)) (Magnuson-Stevens Act) generally authorizes fishing capacity reduction programs. In particular, Magnuson-Stevens Act section 312(d) authorizes industry fee systems for repaying fishing capacity reduction loans which finance program costs.

Section 212 of Division B, Title II, of Public Law 108–7 (section 212) specifically authorizes the Pacific Coast groundfish fishing capacity reduction program. Pursuant to section 212, NMFS implemented the groundfish program by a July 18, 2003, **Federal Register** notice (68 FR 42613). On July 13, 2005, NMFS published this program's fee regulations as a final rule (70 FR 40225) which is codified under subpart M at § 600.1102.

The fee regulations require the payment and collection of fees as percentages of the ex-vessel value of certain fish landed in both a ''reduction fishery'' and in certain ''fee-share fisheries''. One of the fee-share fisheries is the Washington State fishery for pink shrimp.

Section 212 defines a ''fee-share fishery'' as ''a fishery, other than the reduction fishery, whose members are eligible to vote in a referendum for an industry fee system . . . .'' Section 212 also provides that ''persons who have been issued . . . Washington . . . Pink shrimp permits shall be eligible to vote in the referendum . . . .'' Consequently, under section 212, the fee-share fishery involving Washington pink shrimp is the fishery for pink shrimp conducted by person whom Washington has issued a ''pink shrimp permit.''

At the time the proposed and final rules were published, NMFS was aware of only one ''pink shrimp'' fishery. NMFS became aware after publication of both the groundfish program notice and the program's subsequent fee regulations of the existence of two additional Washington State licenses involving pink shrimp other than the ''pink shrimp'' licenses themselves.

These additional Washington State licenses are the ''Puget Sound Shrimp Pots'' licenses and ''Puget Sound Shrimp Trawl'' licenses. Although both these Puget Sound shrimp licenses involve some pink shrimp harvests in Puget Sound, both involve the harvest of other types of shrimp as well. The Washington ''pink shrimp'' permits issued for Puget Sound were not intended to be included in the Washington fee-share fishery involving pink shrimp.

The fee regulations, consequently, did not specifically exclude from fee payment and collection pink shrimp caught under the two Puget Sound shrimp licenses. The holders of the Puget Sound shrimp licenses did not vote in the groundfish program's fee referendum and NMFS did not include the ex-vessel value of pink shrimp landed under the Puget Sound licenses in the required section 212 formula both for referendum vote weighting and for establishing the reduction loan sub-amounts for whose repayment the reduction fishery and each of the fee-share fisheries were responsible.

The Puget Sound shrimp fisheries are not a fee-share fishery and section 212 does not authorize the payment and collection of fees on any shrimp, including pink shrimp, harvested under the Puget Sound shrimp licenses. Nevertheless, the fee regulations do not clearly exclude pink shrimp harvested under the Puget Sound shrimp licenses because NMFS was unaware of these licenses' existence until after adopting a final fee rule.

Fee collection and payment began on September 8, 2005, and this final rule is necessary to clarify that the fee-share fishery involving Washington pink shrimp includes only that portion of the Washington pink shrimp which is harvested by persons to whom Washington issued ocean pink shrimp licenses.

On November 29, 2005, NMFS published a **Federal Register** document (70 FR 71449) proposing to exclude from the fee any pink shrimp caught under the inshore licenses.

Summary of Comments and Responses

NMFS did not receive any comments to the proposed rule. Consequently, this action adopts the proposed regulations without revision.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this final rule is consistent with the Magnuson-Stevens Act and other applicable laws.

Pursuant to 5 U.S.C. 553(d)(1), the 30–day delay in effectiveness is inapplicable because this rule relieves a restriction. This rule revises the regulations to expressly exclude the holders of the Puget Sound pink shrimp licenses from the groundfish program's fee collection system. These license holders are specifically excluded from regulations that require payment and collection of fees for the Pacific Coast groundfish fishing capacity reduction program. Upon implementation of this rule, these license holders would no longer be required to pay fees for shrimp landed in Puget Sound. Because this rule relieves these license holders from payment of these fees, the 30–day delay in effectiveness is inapplicable and this rule is effective upon publication.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation at the Department of Commerce certified to the Chief Counsel for Advocacy of the