

State Air Pollution Control Board on December 19, 1995 and effective April 1, 1996:

(1) Added Definitions to 9-VAC 5-10-20 (General Definitions) (Former SIP Section 120-01-02)—“Federally enforceable”, “Implementation plan”, “Potential to Emit”, and “State enforceable”; and revised definitions to 9-VAC 5-10-20 for “Administrator” and “Volatile organic compound”.

(2) Revisions to Article 4, Rule 4-4, “Emission Standards for General Process Operations” (Former SIP Citation—Part IV, Rule 4-4), sections 9 VAC 5-40-300A. (citation only), B., and C. (Former SIP Sections 120-04-0407A., B, and C).

(3) Revisions to Article 4, Rule 4-4, section 9-VAC 5-40-420 (Former SIP Section 120-04-0419)—Introductory paragraph and paragraphs 5-40-420.1 through .5 are revised, while paragraph 5-40-420.6 is added.

(4) Revisions to Article 36, Rule 4-36 “Emission Standards for Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines” (former Part IV, Rule 4-36), sections 9 VAC 5-40-5060, subsections A., B. (citation only), C., and E.1 and .2 (Former SIP sections 120-04-3601.A. through D.1 and D.2); additions of sections 9 VAC 5-40-5060.D and .E.3.

(5) Revisions to Article 36, Rule 4-36, sections 9 VAC 5-40-5070.A., B. (citations only), (Former SIP section 120-04-3602.A., B.); C. (revised definitions for “Flexographic printing”, “High-solids ink or surface coating”, “Low-solvent ink or surface coating”, “Packaging rotogravure printing”, “Printing”, “Publication rotogravure printing”, “Waterborne ink or surface coating” and added definitions for “Compliant ink or surface coating”, “Cleaning solutions”, “Electrostatic duplication”, “Letterpress printing”, “Lithographic printing”, “Non-compliant ink or surface coating”, “Printing Line”, “Surface coating” and “Web”; deletion of “Roll printing”) (Former SIP section 120-04-3602.C.).

(6) Revisions to Article 36, Rule 4-36, Sections 9 VAC 5-40-5080.A. (Former SIP section 120-04-3603.A.); Addition of Section 9 VAC 5-40-5080.B.; Deletion of SIP Sections 120-04-3603.B., C.; Revisions to Sections 9 VAC 5-40-5130.A., B. (Former SIP sections 120-04-3609.A., B.); Addition of Sections 9 VAC 5-40-5130.C., D., E.; Revisions to Section 9 VAC 5-40-5140.A. (Former SIP section 120-04-3610.A.); Addition of Section 9 VAC 5-40-5140.B.; Revisions to Sections 9 VAC 5-40-5190 (Former SIP Section 120-04-3615)—Introductory paragraph and paragraphs 5-40-5190.1 through .5

are revised, while paragraph 5-40-5190.6 is added.

(7) Revised citations of Article 36, Rule 4-36, Sections 9 VAC 5-40-5090, 5-40-5100, 5-40-5150, 5-40-5160, 5-40-5170 and 5-40-5180 (SIP Sections 120-04-3605, 120-04-3606, 120-04-3611, 120-04-3612, 120-04-3613, and 120-04-3614 respectively).

(8) Addition of Article 45, “Emission Standards for Lithographic Printing Processes” (Rule 4-45), Sections 9 VAC 5-40-7800 through 9 VAC 5-40-7850 inclusive; Sections 9 VAC 5-40-7880 through 9 VAC 5-40-7940 inclusive.

(9) Revisions to Appendix S (“Air Quality Program Policies and Procedures”), sections I.D and II.C.

(10) Revisions to AQP-3 “Procedures For the Measurement of Capture Efficiency For Determining Compliance With Volatile Organic Compound Emission Standards Covering Surface Coating Operations and Graphic Arts Printing Processes (Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines)”.

(ii) Additional material.

(A) Remainder of April 22, 1996 Commonwealth submittal pertaining to regulations 4-4, 4-36, 4-45 and Appendix S.

(114) Revisions to the Virginia State Implementation Plan submitted April 26, 1996 by the Virginia Department of Environmental Quality.

(i) Incorporation by reference.

(A) Letter of April 26, 1996 from the Virginia Department of Environmental Quality transmitting revisions to Virginia’s State Implementation Plan.

(B) Revisions to the following Virginia regulation adopted by the Virginia State Air Pollution Control Board on December 19, 1995 and effective April 1, 1996:

(1) Revisions to Article 40, Rule 4-40 “Emission Standards for Open Burning” [former Part IV, Rule 4-40], Sections 9 VAC 5-40-5600.A.(all revisions) and B. (citation only) (Former SIP Sections 12-04-4001.A. and .B.) Addition of Section 9 VAC 5-40-5600.C.

(2) Revisions to Article 40, Rule 4-40, Sections 9 VAC 5-40-5610.A.and B. (citations only) (Former SIP Sections 120-04-4002.A. and B.); revised citation for the definitions “refuse” and “household refuse” in Section 5-40-5610.C. (Former SIP Section 120-04-4002.C.), added definitions in Section 5-40-5610.C for “Clean burning waste”, “Landfill”, “Local landfill”, “Sanitary landfill” and “Special incineration device”.

(3) Addition of Sections 9 VAC 5-40-5620 (Open Burning Prohibitions), 9 VAC 5-40-5630 (Permissible Open

Burning), and 9 VAC 5-40-5640 (Waivers).

(4) Revisions to Appendix D (Forest Management and Agricultural Practices), Sections II (introductory sentence), II.E. and III.F.

(ii) Additional material.

(A) Remainder of April 22, 1996 Commonwealth submittal pertaining to regulation 4-40.

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#### 40 CFR Parts 52 and 81

[VA068-5018a, VA066-5018a; FRL-5688-8]

#### Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Virginia; Redesignation to Attainment of the Hampton Roads Ozone Nonattainment Area, Approval of the Maintenance Plan and Mobile Emissions Budget

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a redesignation request and two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. On August 27, 1996, the Commonwealth of Virginia submitted a request to redesignate the Hampton Roads marginal ozone nonattainment area to attainment and a maintenance plan as a SIP revision. This request is based upon three years of complete, quality-assured ambient air monitoring data for the area which demonstrate that the National Ambient Air Quality Standard (NAAQS) for ozone has been attained. On August 29, 1996 Virginia submitted a second SIP revision establishing the mobile emissions budget (also known as a motor vehicle emissions budget) for the Hampton Roads ozone nonattainment area. The SIP revisions establish a maintenance plan for Hampton Roads including contingency measures which provide for continued attainment of the ozone NAAQS until the year 2008; and adjust the motor vehicle emissions budget established in the maintenance plan for Hampton Roads to support the area’s transportation plans in the horizon years 2015 and beyond. Under the Clean Air Act (the Act), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the Act’s other redesignation requirements. The intended effect of this action is to approve the redesignation request, the

maintenance plan and the motor vehicle emissions budget for Hampton Roads. This action is being taken under sections 107 and 110 of the Act.

**DATES:** This action will become effective April 28, 1997 unless notice is received on or before April 11, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Ozone/Carbon Monoxide, and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Persons interested in examining these documents should schedule an appointment with the contact person (listed below) at least 24 hours before the visiting day. Copies of the documents relevant to this action are also available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Kristeen Gaffney, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at: (215) 566-2092. Questions may also be addressed via e-mail, at the following address: Gaffney.Kristeen@epamail.epa.gov [Please note that only written comments can be accepted for inclusion in the docket.]

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under section 107(d)(1) of the Act as amended in 1990, in conjunction with the Governor of Virginia, EPA was required to designate Hampton Roads as nonattainment because the area violated the ozone standard during the years 1987–1989. The Hampton Roads marginal ozone nonattainment area consists of the following localities: James City County, Poquoson City, York County, Portsmouth City, Chesapeake City, Suffolk City, Hampton City, Virginia Beach City, Newport News City, Williamsburg City and Norfolk City.

Section 107(d)(3)(E) of the Act outlines the requirements to be met for

an area to be redesignated from nonattainment to attainment. These requirements are: (1) The area must have attained the applicable NAAQS; (2) the area must meet all applicable requirements under section 110 and part D of the Act; (3) the area must have a fully approved SIP under section 110(k) of the Act; (4) the air quality improvement must be due to permanent and enforceable measures; and, (5) the area must have a fully approved maintenance plan pursuant to section 175A of the Act.

Attainment of the ozone NAAQS is determined by the expected number of exceedances in a calendar year. The method for determining attainment of the ozone NAAQS is contained in 40 CFR 50.9 and appendix H to that section. The simplest method by which expected exceedances are calculated is by averaging actual exceedances of the 0.12 parts per million (ppm) ozone NAAQS at each monitoring site over a three year period. An area is in attainment of the standard if this average results in expected exceedances for each monitoring site in the area of 1.0 or less per calendar year. When a valid daily maximum hourly average value is not available for each required monitoring day during the year, the missing days must be accounted for when estimating exceedances for the year.

Ambient air quality data recorded in the Hampton Roads area, between the years 1993–1995 shows attainment of the ozone NAAQS. The data for these years meets EPA's completeness criteria of 75% or greater data capture. Furthermore, the area remained free of violations during the 1996 ozone season.

In the "Review of Virginia's Submittals" below, EPA will explain how the redesignation request and maintenance plan SIP revision meet the requirements of Section 107 (d)(3)(E) of the Act pertaining to redesignations to attainment. In Section IV, EPA will review Virginia's motor vehicle emissions budget SIP revision. A Technical Support Document (TSD) has also been prepared by EPA on these rulemaking actions, which explains EPA's review in further detail. Copies of the TSD are available from the EPA Regional office listed in the **ADDRESSES** section of this document in addition to being available for public inspection at that office.

**II. Review of Virginia's Submittals**

Following is a brief description of how the Commonwealth of Virginia's August 27, 1996 submittal fulfills the five requirements of redesignation

requests from section 107(d)(3)(E) of the Act. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

**1. Attainment of the Ozone NAAQS**

The submittal contains an analysis of ozone air quality data which is relevant to the maintenance plan and to the redesignation request for the Hampton Roads ozone nonattainment area. Ambient ozone monitoring data during 1993 through 1995 show attainment of the ozone NAAQS in Hampton Roads, Virginia. See 40 CFR Section 50.9 and Appendix H. The Commonwealth of Virginia's request for redesignation includes documentation that the entire area has complete quality assured data showing attainment of the standard over the most recent consecutive three calendar year period prior to submittal of the request (1993–1995). This request is based on ambient air ozone monitoring data collected from three ozone monitoring stations in the area. Furthermore, it is relevant to note that the Hampton Roads area showed continued attainment of the ozone NAAQS during the most recent ozone season 1996. The data clearly show an expected exceedance rate of less than 1.0 per year since 1993. The technical support document (TSD) explains the calculation of the air quality monitoring data in more detail. The Hampton Roads area has met the first statutory criterion for redesignation to attainment of the ozone NAAQS. Virginia has committed to continue monitoring the air quality in this area in accordance with the Act's requirements as prescribed in 40 CFR Part 58, which is required, among other things, to meet the second statutory criterion for redesignation to attainment.

**2. Meeting Applicable Requirements of Section 110 and Part D**

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the Act, EPA has reviewed the SIP to ensure that it contains all measures that were due under the Act prior to or at the time the Commonwealth submitted its redesignation request. The Commonwealth of Virginia has been fully implementing the EPA approved section 110 (a)(2) and Part D requirements of the 1977 Act applicable to the Hampton Roads area. The Clean Air Act Amendments of 1990, however, modified section 110(a)(2) and, under Part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, EPA has reviewed the SIP

and determined that it contains all measures that were due under the Act as revised in 1990, discussed below.

#### 2.A. Section 110 Requirements

Under section 107(d)(3)(E)(v) of the Act, for a redesignation request to be approved, the Commonwealth must have met all requirements that applied to the subject area prior to or at the same time as the submission of a complete redesignation request. Virginia submitted a complete redesignation request on August 27, 1996.

Requirements of the Act that come due subsequently continue to be applicable to the area at later dates (see section 175A of the Act) and, if redesignation of any of the areas is disapproved, the Commonwealth remains obligated to fulfill those requirements. These requirements are discussed in the following EPA documents: "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992; "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992; and "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

Although section 110 of the Act was amended in 1990, the Hampton Roads, Virginia SIP meets the requirements of section 110 (a)(2) of the amended Act. A number of the requirements did not change in substance and, therefore, the preamendment SIP met these requirements. As to those requirements that were amended, many duplicate other requirements of the Act (see 57 FR 23936 and 23939, June 23, 1992). EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2) of the Act. The SIP revision has been adopted by the Commonwealth after reasonable notice and public hearing. The SIP contains enforceable emission limitations adequate to produce attainment, requires monitoring, compiling, and analyzing ambient air quality data. It provides for adequate funding, staff, and associated resources necessary to implement SIP requirements, has provisions for Prevention of Significant Deterioration (PSD) and New Source Review (NSR),

and requires stationary source emissions monitoring and reporting. There are no outstanding requirements for volatile organic compound (VOC) reasonably available control technology requirements (RACT) in the Hampton Roads area, as discussed further under "Part D Requirements" below.

#### 2.B. Part D Requirements

Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override the general provisions of subpart 1 (57 FR 13501). The Hampton Roads area is classified as marginal. Therefore, in order to be redesignated to attainment, it must meet the requirements of subpart 1 of part D, specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D that apply to marginal areas (subsection 182(a)).

##### 2.B.1. Subpart 1 of part D—Section 172(c) Plan Provisions

Under section 172(b), the section 172(c) requirements are applicable no later than three years after an area has been designated as nonattainment under the Act. In the case of Hampton Roads, the Commonwealth has satisfied all of the section 172(c) requirements necessary for redesignation.

The Hampton Roads area was designated marginal nonattainment on November 6, 1991 [56 FR 56694]. In the case of marginal ozone nonattainment areas, the section 172(c)(1) Reasonably Available Control Measures requirement was superseded by the section 182(a)(2) RACT requirements, which did not require nonattainment areas newly designated marginal after enactment of the 1990 amendments to submit RACT corrections.<sup>1</sup> Thus, no additional RACT submissions were required for the Hampton roads area to be redesignated. Also, by virtue of provisions under section 182(a), areas designated as marginal do not have to submit an attainment demonstration.

With respect to the section 172(c)(2) Reasonable Further Progress (RFP) requirement, because Hampton Roads has attained the ozone NAAQS, no RFP requirements apply.

<sup>1</sup> Refer to the General Preamble for the Implementation of Title 1, [57 FR 13503], and the VOC RACT Fix-Up rulemaking published at 58 FR 49458.

The section 172(c)(3) emissions inventory requirement has been met by the submission and approval of the 1990 base year inventory for Hampton Roads required under subpart 2 of part D, section 182(a)(1). Virginia submitted its 1990 base year inventory for the Hampton Roads area, which was approved by EPA on September 16, 1996 [61 FR 48629].

As for the section 172(c)(5) NSR requirement, EPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. See memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment." The rationale for this view is described fully in that memorandum, and is based on EPA's authority to establish de minimis exceptions to statutory requirements. See *Alabama Power Co. v. Costle*, 636 F. 2d 323, 360-61 (D.C. Cir. 1979). Upon redesignation of this area to attainment, the prevention of significant deterioration provisions (PSD) contained in part C of title I of the Act are applicable. Virginia received full delegation of authority of the Federal PSD program on June 3, 1981. [See 40 CFR 52.2451]

##### 2.B.2. Subpart 1 of Part D—Section 176 Conformity Plan Provisions

Section 176 of the Act requires states to revise their SIPs to establish criteria and procedures to ensure that federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by states must be consistent with federal conformity regulations that the Act required EPA to promulgate. Congress provided for the state revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the Implementation of Title I informed states that the conformity regulations would establish submittal dates [see 57 FR 13498, 13557 (April 16, 1992)].

The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that states adopt both transportation and general conformity provisions in their SIPs for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the Commonwealth of Virginia is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the federal rule. Similarly, Virginia is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the federal rule.

Although this redesignation request was submitted to EPA after the due dates for the SIP revisions for transportation conformity (58 FR 62188) and general conformity (58 FR 63214) rules, EPA has interpreted the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 107(d) of the Act. The rationale for this is based on a combination of two factors.

First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas even after redesignation to attainment. Therefore, the Commonwealth remains obligated to adopt the transportation and general conformity rules even after redesignation. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D of the Act, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting state rules does not relieve an area from the obligation to implement conformity requirements.

Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under federal rules if state rules are not yet adopted, these requirements are not applicable requirements for purposes of evaluating a redesignation request.

Therefore, EPA has modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) of the Act concerning the applicable requirements for purposes of reviewing an ozone redesignation request. Under this new policy, for the reasons just discussed, EPA believes that the ozone redesignation request for Hampton Roads may be approved notwithstanding the lack of approved Commonwealth transportation and general conformity rules.

#### 2.B.3. Subpart 2 of part D—Section 182 Provisions for Ozone Nonattainment Areas

The Hampton Roads nonattainment area is classified as marginal and is subject to the requirements of section 182(a) of the Act. The Commonwealth was required to meet the emission inventory requirement of section 182(a)(1) and the emissions statement program requirement of section 182(a)(3)(b).

Section 182(a)(1) required an emissions inventory as specified by section 172(c)(3) of actual emissions of carbon monoxide (CO), volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) from all sources by November 15, 1992. Virginia submitted its 1990 base year inventory for the Hampton Roads area which was approved by EPA on September 16, 1996 [61 FR 48629].

Section 182(a)(3)(B) required a SIP revision by November 15, 1992 to require stationary sources of VOC and NO<sub>x</sub> emissions to report the actual emissions of these pollutants annually. On November 4, 1992, Virginia submitted rule revisions implementing the emission statement requirement. EPA approved Virginia's Emission Statement program as a SIP revision on May 2, 1995, codified at 40 CFR 52.2420(c)(103).

As discussed above, RACT corrections are not required under section 182(a)(2) for areas such as Hampton Roads that were not designated nonattainment until after the 1990 CAA Amendments. Additionally, section 182(a)(2) does not require the submission of an inspection and maintenance SIP revision for Hampton Roads. Likewise, as discussed above under the part 172 requirements, the Commonwealth need not comply with the requirements of section 182(a) concerning revisions to the part D NSR program in order to be redesignated.

Section 182(3) requires submission of periodic inventories every three years from 1990 until the area is redesignated attainment. The maintenance plan for Hampton Roads contains a full emission inventory for the attainment year 1993,

as discussed below in section 5.A. Because the attainment year is the same as the year the first periodic inventory came due, the maintenance plan satisfies this requirement.

#### 3. Fully Approved SIP Under Section 110(k) of the Act

EPA has determined that the Commonwealth of Virginia has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and Part D as discussed above. Therefore, the redesignation requirement of section 107(d)(3)(E) (ii) has been met.

#### 4. Improvement in Air Quality Due to Permanent and Enforceable Measures

The Commonwealth must be able to reasonably attribute air quality improvements in the area to emission reductions which are permanent and enforceable. Attainment resulting from temporary reductions in emission rates or unusually favorable meteorological conditions does not qualify for redesignation.

Under the 1977 Act, EPA approved the Commonwealth of Virginia SIP control strategy for the Hampton Roads, Virginia area. EPA determined the emission reductions were achieved as a result of those enforceable rules.

Several other enforceable control measures have come into place since the Hampton Roads, Virginia area violated the ozone NAAQS. Significant reductions in ozone precursor emissions are attributed to federal mobile source emission control programs. Specifically, reductions occurred due to the Federal Motor Vehicle Control Program (FMVCP) due to the mandatory lowering of fuel volatility and automobile fleet turnover. Effective in 1993, the Reid Vapor Pressure (RVP) of gasoline decreased from 9.9 pounds per square inch (psi) to 7.8 psi in the Hampton Roads area. Beginning in 1995, federal reformulated gasoline (RFG) was implemented in Hampton Roads as a replacement to low RVP gasoline. The benefits of RFG will be discussed later in this document under the maintenance plan control strategies.

Virginia developed a design year emissions inventory representing the "worst case" emissions scenario that contributes to ozone violations as a starting point for the redesignation request. The design year chosen by Virginia for Hampton Roads is 1988, a year that was particularly conducive to ozone violations in eastern U.S. nonattainment areas. The maintenance plan contains a comprehensive emissions inventory of ozone precursors, VOCs, NO<sub>x</sub> and CO, for the

year 1988 to establish the amount of emission reductions achieved to reach attainment with the ozone NAAQS in the 1993 attainment year.

The amount of reductions achieved from FMVCP and RVP programs between 1988 and 1993 was determined using EPA's mobile emission inventory model MOBILE 5.0a and relevant vehicle miles traveled (VMT) data. As a result of these permanent and enforceable reductions, VOC emissions were reduced by 49.115 tons/day (1988-1993); emissions of NO<sub>x</sub> increased by 8.481 tons/day in Hampton Roads. The Commonwealth of Virginia's maintenance plan requires the continuation of the federal RVP program. The Commonwealth demonstrated that point source VOC emissions were not artificially low due to local economic downturn during the period in which Hampton Roads air quality came into attainment. Reductions due to decreases in production levels or from other unenforceable scenarios such as voluntary reductions were not included in the determination of the emission reductions.

EPA finds that the combination of measures contained in the SIP and federal measures have resulted in permanent and enforceable reductions in ozone precursors that have allowed Hampton Roads to attain the NAAQS, and therefore, that the redesignation criterion of section 107(d)(3)(E)(iii) has been met.

**5. Fully approved Maintenance Plan Under Section 175A**

Section 175A of the Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the Commonwealth must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems. EPA is approving the Virginia maintenance plan for the Hampton Roads, Virginia area because EPA finds that Virginia's submittal meets the requirements of section 175A of the Act as discussed below.

**5.A. Emissions Inventories**

The Commonwealth developed an attainment emissions inventory to identify the level of emissions sufficient to achieve the ozone NAAQS. The maintenance plan submitted on August 27, 1996 contains comprehensive inventories for the years 1993, 2000 and 2008 prepared according to EPA guidance for ozone precursors, VOCs, NO<sub>x</sub>, and CO emissions to demonstrate attainment and maintenance for Hampton Roads. The inventories include area, stationary, non-road mobile and mobile sources. The 1993 inventory is considered representative

of attainment conditions because the NAAQS was not violated during 1993 and was one of the three years upon which the attainment demonstration was based. The plan includes a demonstration that emissions will remain below the 1993 attainment year levels for a 10 year period (2008) and provides an interim year inventory as required by EPA guidance for the year 2000. The Commonwealth has demonstrated that emissions for ozone precursors through the year 2008 will remain below the 1993 attainment year levels because of permanent and enforceable measures, while allowing for growth in population and vehicle miles traveled (VMT).

The Commonwealth's submittal contains detailed inventory data and summaries by county and source category. Growth Projections for point, non-road and area sources were derived using EPA's Economic Growth Analysis System (E-GAS) and the Bureau of Economic Analysis Factors. These factors were applied to the 1993 inventory to reflect the expected emission levels through 2008. VMT growth was provided by the Virginia Department of Transportation. These projected year inventories were prepared in accordance with EPA guidance. EPA's TSD includes a more detailed analysis of the projected year inventories for the nonattainment area. The following table summarizes the average peak ozone season weekday VOC, NO<sub>x</sub>, and CO emissions for the major anthropogenic (non-biogenic) source categories for the 1993 attainment year inventory and projected 2000 and 2008 inventories.

Emissions (tons per year)	1993	2000	2008
<b>VOCs:</b>			
Point sources .....	25.044	27.395	30.040
Area sources <sup>2</sup> .....	129.702	128.491	136.641
Mobile sources <sup>3</sup> .....	73.244	50.853	51.862
Subtotal .....	227.990	206.739	218.543
<b>NO<sub>x</sub>:</b>			
Point sources .....	85.209	86.634	81.072
Area sources .....	66.887	72.184	78.088
Mobile sources .....	77.983	70.064	70.061
Subtotal .....	230.079	228.882	229.221
<b>CO:</b>			
Point sources .....	13.324	14.673	14.699
Area sources .....	300.167	320.364	340.541
Mobile sources .....	590.918	370.022	366.121
Subtotal .....	904.409	705.059	721.361
<b>TOTALS .....</b>	<b>1362.478</b>	<b>1140.680</b>	<b>1169.125</b>

<sup>2</sup> Area source category includes non-road mobile emissions and emissions from motor vehicle refueling.

<sup>3</sup> Mobile source estimates include emissions safety margins. A safety margin exists when the total emissions (stationary, mobile, area) projected for the attainment year (or years of a maintenance plan) are less than the emissions level necessary to demonstrate attainment or maintenance. That difference in emissions constitutes a safety margin. In this case, Virginia allocated such safety margins to the on-road portion of the mobile emissions budget to satisfy conformity requirements.

### 5.B. Demonstration of Maintenance

As shown in the previous table, decreases in VOC emissions are projected in the Hampton Roads nonattainment area throughout the maintenance period. While NO<sub>x</sub> emissions are projected to increase slightly, the decrease in VOC emissions is sufficient to offset the NO<sub>x</sub> increase.

Virginia attributes the projected reductions of VOC emissions to the following national control measures: Federal Motor Vehicle Control Program (Tier 1); Reformulated Gasoline (on-road and non-road), and pending EPA rules regulating emissions from Consumer/Commercial Solvents reformulations; Architectural/Industrial Maintenance Coatings reformulation; and Automobile Refinishing. Additionally, the Commonwealth implemented source specific seasonal NO<sub>x</sub> emission limits (emission caps) on two point sources of NO<sub>x</sub> in the nonattainment area. Each control program and the anticipated emissions benefit is discussed briefly below. EPA believes these measures will contribute significant emissions reductions that will help keep the Hampton Roads area in attainment of the ozone NAAQS. Refer to the TSD for further detail.

1. Federal Motor Vehicle Control Program (Tier 1): EPA is required under the Clean Air Act to issue new and cleaner motor vehicle emission standards to be phased in beginning with the model year 1994, as well as a uniform level of evaporation emission controls. EPA promulgated a national rule establishing "new car" standards for 1994 and newer model year light-duty vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). In the Hampton Roads maintenance plan, Virginia projects an anticipated reduction from Tier 1 of VOCs of 18.187 tons/day in the year 2000 and 30.835 tons/day by the year 2008; and of NO<sub>x</sub> of 15.924 tons/day in 2000 and 24.778 tons/day in 2008. These benefits were calculated using the Mobile 5.0a model. EPA has reviewed Virginia's calculation of the benefits for this measure and finds the amount of reduction Virginia claims acceptable.

2. Reformulated Gasoline (on-road and non-road): Section 211(k) of the Clean Air Act requires that, beginning January 1, 1995, only reformulated gasoline be sold or dispensed in ozone nonattainment areas classified as severe or above. Gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. Section 211(k)(6) allows other nonattainment areas to "opt in" to the program. Virginia submitted a request to

opt-in to the Reform Gas program in the Hampton Roads nonattainment area beginning in 1995, which EPA approved on December 23, 1991. The Commonwealth claims the following projected reductions in tons/day from this program:

	2000 (TPD)	2008 (TPD)
On-road sources .....	14.8	14.5
Non-road sources .....	1.15	1.2
Area sources .....	1.8	1.95

EPA's Mobile 5.0a model was used to determine the emission benefit. EPA has reviewed Virginia's calculation of the benefits for this control program and finds the amount of reduction Virginia claims is acceptable.

3. Architectural and Industrial Maintenance Coatings (AIM): Emission reductions have been projected from AIM coatings due to the expected promulgation by the EPA of a national rule. VOC emissions emanate from the evaporation of solvents used in the coating process. In a memo dated March 7, 1996, EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. As a result of legal challenges to the proposed national rule for AIM, EPA has negotiated a compliance date of no earlier than January 1, 1998. In the maintenance plan for Hampton Roads, Virginia projects a 20% reduction in VOC emissions from the 1993 attainment year inventory for this category which translates into 2.821 tons/day by 2000 and 2.831 tons/day by 2008. EPA has reviewed Virginia's calculation of the benefits for this measure and finds the amount of reduction Virginia claims acceptable.

4. Consumer and Commercial Products: Section 183(e) of the Clean Air Act required EPA to conduct a study of VOC emissions from consumer and commercial products and to compile a regulatory priority list. EPA is then required to regulate those categories that account for 80% of the consumer product emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule, including personal, household, and automotive products. Per a June 22, 1996 EPA policy memo, states may claim credit for up to a 20% reduction of total consumer product emissions. At this time, the final rule for consumer products is expected to be signed by the Administrator in March 1997 and require compliance by July 1997. In the maintenance plan for Hampton Roads, Virginia projects a 20%

reduction in VOC emissions from the 1993 attainment year inventory in this category which translates into 1.664 tons/day by 2000 and 1.765 tons/day by 2008. EPA has reviewed Virginia's calculation of the benefits for this measure and finds the amount of reduction Virginia claims acceptable.

5. Automobile Refinishing: EPA is in the process of adopting a national rule to control VOC emissions from solvent evaporation through reformulation of coatings used in auto body refinishing processes. These coatings are typically used by industry and small businesses, or by vehicle owners. VOC emissions emanate from the evaporation of solvents used in the coating process. In a November 24, 1994 memo, EPA set forth policy on the creditable reductions to be assumed from the national rule for auto body refinishing. That memo stipulated a 37% reduction from current emissions. In the maintenance plan for Hampton Roads, Virginia projects a 37% reduction in VOC emissions from the 1993 attainment year inventory in this category which translates into 1.803 tons/day by 2000 and 1.809 tons/day by 2008. EPA has reviewed Virginia's calculation of the benefits for this measure and finds the amount of reduction Virginia claims acceptable.

6. Source Specific NO<sub>x</sub> Emission Limits: The Commonwealth established seasonal NO<sub>x</sub> emission limits for selected major point sources in the Hampton Roads area. The limits have been established through SIP approved federally enforceable state operating permits. The emission limits are only effective during the peak ozone season months, June-August. In the maintenance plan, the permitted emission limits will result in 5.845 tons/day (2000) and 26.148 tons/day (2008) reduction in NO<sub>x</sub> emissions from the previously permitted emission levels in the 1993 attainment year inventory. EPA has reviewed Virginia's calculation of the benefits for this measure and finds the amount of reduction Virginia claims acceptable.

As discussed earlier, Hampton Roads has continued to monitor attainment of the ozone NAAQS through 1996. EPA believes that these emissions projections and the associated control measures demonstrate that the nonattainment area will continue to maintain the ozone NAAQS until the year 2008.

### 5.C. Verification of Continued Attainment

Continued attainment of the ozone NAAQS in Hampton Roads depends, in part, on the Commonwealth of Virginia's efforts toward tracking indicators of continued attainment

during the maintenance period. The Commonwealth of Virginia will track the status and effectiveness of the maintenance plan by updating the emissions inventory annually and through periodic evaluations. Virginia has committed to develop and submit to EPA comprehensive tracking inventories every three years during the maintenance period.

The Commonwealth of Virginia will acquire source emissions data through the annual emission statements program. The Commonwealth of Virginia will continue to monitor ambient ozone levels by operating its ambient ozone air quality monitoring network in accordance with 40 CFR part 58. The Commonwealth will continue to follow appropriate quality assurance and quality control procedures and enter the data into AIRS.

#### 5.D. Contingency Plan

The level of VOC and NO<sub>x</sub> emissions in Hampton Roads will largely determine its ability to stay in compliance with the ozone NAAQS. Despite the Commonwealth of Virginia's best efforts to demonstrate continued compliance with the NAAQS, Hampton Roads may exceed or violate the NAAQS. Therefore, Virginia has provided the following triggering events and contingency measures with a schedule for implementation in the event of future ozone air quality problems.

1. In the event that VOC or NO<sub>x</sub> emissions exceed the projected emissions inventories, RACT regulations will be implemented for either VOC or NO<sub>x</sub> sources that have emissions of 100 tons per year or more, depending on the pollutant of concern.

2. In the event that a violation of the ozone NAAQS occurs at any individual monitor, either VOC RACT or NO<sub>x</sub> RACT regulations will be implemented for all sources with emissions of over 100 tons per year or more.

These contingency measures will be implemented on the following schedule:

A. Notification received from EPA that a contingency measure must be implemented, or three months after a recorded violation;

B. Applicable regulation to be adopted 12 months after date established in A above;

C. Regulation implemented within 6 months of adoption;

D. Compliance with regulation achieved within 12 months of adoption.

#### 5.E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the Commonwealth of Virginia

has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

EPA has determined that the maintenance plan adopted by the Commonwealth of Virginia and submitted to EPA on August 27, 1996 meets the requirements of section 175A of the Act. Therefore, EPA is approving the maintenance plan.

#### III. Interim Implementation Policy (IIP) Impact

On December 13, 1996, EPA published proposed revisions to the ozone and particulate matter NAAQS. Also on December 13, 1996, EPA published its proposed policy regarding the interim implementation requirements for ozone and particulate matter during the time period following any promulgation of a revised ozone or particulate matter NAAQS (61 FR 65751). This IIP includes proposed policy regarding ozone redesignation actions submitted to and approved by EPA prior to promulgation of a new ozone standard, as well as those submitted prior to and approved by EPA after the promulgation date of a new or revised ozone standard.

Complete redesignation requests, submitted and approved by EPA prior to the promulgation date of the new or revised ozone standard, will be allowed to redesignate to attainment based on the maintenance plan's ability to demonstrate attainment of the current 1-hour standard and compliance with existing redesignation criteria. Any redesignation requests submitted prior to promulgation, which are not acted upon by EPA prior to that promulgation date, must then also include a maintenance plan which demonstrates attainment of both the current 1-hour standard and the new or revised ozone standard to be considered for redesignation.

As discussed previously, the Hampton Roads redesignation request demonstrates attainment under the current 1-hour ozone standard.

Since the EPA plans to approve this request prior to the promulgation date of the new or revised ozone standard, the Hampton Roads redesignation request meets the proposed IIP.

#### IV. Motor Vehicle Emissions Budget

To achieve expeditious attainment of the NAAQS, the Clean Air Act provisions at section 176 require that any project, program or plan in any way approved, accepted or funded by the federal government conform to the applicable SIP. As discussed earlier in

this rulemaking in 2.B.2. Conformity Provisions, conformity determinations are required in both maintenance and nonattainment areas. Transportation projects, Transportation Improvement Programs (TIPs) and Long Range Transportation Plans must demonstrate conformity.

In 40 CFR 51.392 EPA defines a motor vehicle emissions budget as that portion of the total allowable emissions of any criteria pollutant or its precursors, which is defined in a revision to the SIP required to meet reasonable further progress, attainment or maintenance demonstrations, and which is allocated to highway and transit vehicles. The applicable implementation plan for an ozone nonattainment area designates a motor vehicle emissions budget for volatile organic compounds and may also allocate a similar budget for oxides of nitrogen (NO<sub>x</sub>) in the case of the Post 1996 Reasonable Further Progress Plans required in ozone nonattainment areas classified as serious or above. The applicable SIP for an ozone nonattainment area may also include a NO<sub>x</sub> budget if NO<sub>x</sub> reductions are being substituted for reductions of VOCs in milestone years required for reasonable further progress. The applicable SIP must demonstrate that this NO<sub>x</sub> budget will be achieved with measures contained therein.

40 CFR 51.404 requires that long range transportation plans specifically describe the transportation system envisioned for certain future years, which are called horizon years. For maintenance areas, the regional analysis of emissions from this transportation system in each horizon year must be less than or equal to the motor vehicle emissions budget established by the maintenance plan. EPA's transportation conformity regulations require long range transportation plans to demonstrate conformity for a period of time (20 years) that goes well beyond the actual control strategy period on which the budget is based. The maintenance plan requires adopted rules to cover only a ten year maintenance period (Virginia's maintenance period for Hampton Roads lasts until 2008).

Virginia is required by the Clean Air Act to perform a regional emissions analysis on their long range transportation plans and compare the ozone precursor emissions from this analysis to the VOC and NO<sub>x</sub> motor vehicle emissions budgets, in ten year increments for the 20 year timeframe of the long range transportation plan. The Commonwealth chose to create a VOC and NO<sub>x</sub> motor vehicle emissions budget for the Hampton Roads area for

the years after the 10-year timeframe of the maintenance plan in order to facilitate transportation conformity determinations. To accommodate the projected mobile emissions growth in the Hampton Roads area in the horizon years of the transportation planning cycle (2015 and beyond), additional emission reductions from enforceable control measures are necessary for positive conformity determination purposes. To be creditable, such reductions must be included in the SIP for the area.

Virginia's August 29, 1996 SIP revision modifies the motor vehicle emissions budgets in the Hampton Roads maintenance plan in support of the area's transportation plans for the period beginning in 2015. Although mobile source emissions of NO<sub>x</sub> and VOC are predicted to rise in the year 2015 as VMT increases, Virginia anticipates that emission reductions will occur during this time period from pending national emission control programs on non-road sources to offset this growth, specifically new engine standards for marine engines, locomotive engines and heavy duty diesel engines. The Act requires that EPA promulgate new emission standards for marine engines, locomotive engines and heavy duty diesel engines. For the purposes of conformity, the motor vehicle emissions budgets in the maintenance plan are increased to 53.730 tons per day of VOC and 80.617 tons per day of NO<sub>x</sub>, with an effective date of January 1, 2015. The emissions reductions from the national control programs create a safety margin. For Hampton Roads the safety margin for VOC is 1.868 tons/day and for NO<sub>x</sub> 10.610 tons/day. All these reductions from the non-road source category are allocated to the motor vehicle emissions budget for the purposes of conformity determinations. Virginia used applicable EPA guidance<sup>4</sup> in calculating the anticipated emission benefits from the national control programs.

In general, approved budgets in the SIP are not superseded until the replacement budgets in the next SIP are actually SIP approved. However, because budgets after 2008 are not required by the Act for this maintenance plan and are being established for conformity purposes only to bridge the gap between the end of the first maintenance plan and the horizon years, these budgets will cease to apply

once the second ten-year maintenance plan is submitted to EPA. The new submitted budget prepared by the Commonwealth for the second 10-year maintenance plan will replace the budget being approved today, as soon as it is submitted to EPA because these budgets will be a more appropriate basis of conformity. If the national emission control programs relied on in this SIP revision are not implemented according to the current schedule or do not produce the emission benefits anticipated, the Commonwealth commits to revising the SIP to include other measures as necessary to compensate any shortfall. Furthermore, the long range motor vehicle emission budget approved today will have to be incorporated into the second ten-year maintenance plan demonstrating continued attainment of the ozone NAAQS developed for the Hampton Roads area. To satisfy conformity requirements in outlying years, EPA is approving the motor vehicle emissions budget for the Hampton Roads area submitted on August 29, 1996 into the Virginia SIP.

#### V. Final Action

The EPA has evaluated the Commonwealth's redesignation request for Hampton Roads for consistency with the Act, EPA regulations, and EPA policy. The EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the ozone standard. In addition, EPA has determined that the redesignation request meets the requirements of section 107(d)(3)(E) and policy set forth in the General Preamble and policy memorandum discussed in this document for area redesignations, and today is approving Virginia's redesignation request for Hampton Roads submitted on August 27, 1996. Furthermore, EPA is approving into the Virginia SIP the required maintenance plan because it meets the requirements of section 175A and the motor vehicle emissions budget for the Hampton Roads area.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 28, 1997 unless by April 11, 1997, adverse comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a

subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 28, 1997.

The Hampton Roads nonattainment area is subject to the Act's requirements for marginal ozone nonattainment areas until and unless it is redesignated to attainment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### VI. Administrative Requirements

##### A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA 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 regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request

<sup>4</sup>EPA's guidance includes two policy memos "Future Nonroad Emission Reduction Credits for Locomotives" dated January 3, 1995 and "Future Nonroad Emission Reduction Credits for Court Order Nonroad Standards" dated November 28, 1996.



will not affect a substantial number of small entities.

**C. Unfunded Mandates**

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

**D. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**E. Petitions for Judicial Review**

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of EPA's approval of the Hampton Roads redesignation request, maintenance plan and mobile emissions budget must be filed in the United States Court of Appeals for the appropriate circuit by May 12, 1997. 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 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirement.

Dated: February 5, 1997.

W. Michael McCabe,  
*Regional Administrator, Region III.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

Authority: 42 U.S.C. 7401-7671q.

**Subpart VV—Virginia**

2. Section 52.2420 is amended by adding paragraph (c)(117) to read as follows:

**§ 52.2420 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(117) The ten year ozone maintenance plan for Hampton Roads, Virginia ozone nonattainment area submitted by the

Virginia Department of Environmental Quality on August 27, 1996:

(i) Incorporation by reference.

(A) Letter of August 27, 1996 from the Virginia Department of Environmental Quality transmitting the 10 year ozone maintenance plan for the Hampton Roads marginal ozone nonattainment area.

(B) The ten year ozone maintenance plan including emission projections, control measures to maintain attainment and contingency measures for Hampton Roads ozone nonattainment area adopted on August 27, 1996.

(ii) Additional Material.

(A) Remainder of August 27, 1996 Commonwealth submittal pertaining to the redesignation request and maintenance plan referenced in paragraph (c)(117)(i) of this section.

3. Section 52.2424 is added to read as follows:

**§ 52.2424 Motor Vehicle Emissions Budgets.**

Motor vehicle emissions budget for the Hampton Roads maintenance area adjusting the mobile emissions budget contained in the maintenance plan for the horizon years 2015 and beyond adopted on August 29, 1996 and submitted by the Virginia Department of Environmental Quality on August 29, 1996.

**PART 81—[AMENDED]**

4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671.

**Subpart C—Section 107 Attainment Status Designations**

4. In § 81.347 the "Virginia-Ozone" table is amended by revising the entry for "Norfolk-Virginia Beach-Newport News (Hampton Roads) Area" to read as follows:

**§ 81.347 Virginia.**

\* \* \* \* \*

VIRGINIA—OZONE

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Norfolk-Virginia Roads) Area Chesapeake Hampton James City County Newport News Norfolk Poquoson Portsmouth Suffolk Virginia Beach Williamsburg York County	[insert date 45 days after publication date].	Unclassifiable/ Attainment	.....	.....

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 97-6078 Filed 3-11-97; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 80**

[FRL-57-02-2]

RIN 2060-AD27

**Regulation of Fuels and Fuel Additives; Standards for Reformulated Gasoline**

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

**ACTION:** Notice of denial of petition for reconsideration.

**SUMMARY:** Pursuant to section 553(e) of the Administrative Procedure Act, the American Petroleum Institute requested that EPA reconsider and repeal the Phase II reformulated gasoline emission reduction standard for oxides of nitrogen. For the reasons provided below, EPA is denying this petition. EPA's review of new data concerning the air quality benefits and cost-effectiveness of the reformulated gasoline emission reduction standard for oxides of nitrogen demonstrates the continued appropriateness of the standard.

**EFFECTIVE DATE:** March 12, 1997.

**ADDRESSES:** Information relevant to this action is contained in Docket No. A-96-27 at the EPA Air and Radiation Docket, room M-1500 (mail code 6102), 401 M St., SW., Washington, DC 20460. The docket may be inspected at this location from 8:30 a.m. until 5:30 p.m. weekdays. The docket may also be reached by telephone at (202) 260-7548. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

**FOR FURTHER INFORMATION CONTACT:** Debbie Wood, Office of Mobile Sources, Fuels and Energy Division, (202) 233-9000.

**SUPPLEMENTARY INFORMATION**

**I. Introduction and Background**

On February 16, 1994, EPA published a final rule establishing various content and emission reduction standards for reformulated gasoline (RFG), including provisions for the certification of RFG and enforcement of RFG standards, and establishing certain requirements regarding unreformulated or conventional gasoline (59 FR 7716). The purpose of the RFG program is to improve air quality by requiring that gasoline sold in certain areas of the U.S. be reformulated to reduce emissions from motor vehicles of toxics and tropospheric ozone-forming compounds, as specified by section 211(k) of the Clean Air Act (CAA or the Act). Section 211(k) mandates that RFG be sold in nine specific metropolitan areas with the most severe summertime ozone levels; RFG must also be sold in any ozone nonattainment area reclassified as a severe area, and in other ozone nonattainment areas that choose to participate or "opt in" to the program. The Act further requires that conventional gasoline sold in the rest of the country not become any more polluting than it was in 1990 by requiring that each refiner's and importer's gasoline be as clean, on average, as it was in 1990. This has resulted in regulatory requirements referred to as the "anti-dumping" program.

The Act mandates certain requirements for the RFG program. Section 211(k)(1) directs EPA to issue regulations that:

Require the greatest reduction in emissions of ozone forming volatile organic compounds

(during the high ozone season) and emissions of toxic air pollutants (during the entire year) achievable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, any nonair-quality and other air-quality related health and environmental impacts and energy requirements.

Section 211(k) specifies the minimum requirement for reduction of volatile organic compounds (VOCs) and toxics for 1995 through 1999, or Phase I of the RFG program; the section specifies that EPA must require the more stringent of a formula fuel or an emission reduction performance standard, measured on a mass basis, equal to 15 percent of baseline emissions. Baseline emissions are the emissions of 1990 model year technology vehicles operated on a specified baseline gasoline. Section 211(k)(2) compositional specifications for RFG include a 2.0 weight percent oxygen standard and a 1.0 volume percent benzene standard. Section 211(k)(2) also specifies that emissions of oxides of nitrogen (NO<sub>x</sub>) may not increase in RFG over baseline emissions.

For the year 2000 and beyond, or Phase II of the RFG program, the Act specifies that the VOC and toxic performance standards must be no less than either a formula fuel or a 25 percent reduction from baseline emissions, whichever is more stringent. EPA can adjust these standards upward or downward taking into account such factors as technological feasibility and cost, but in no case can the standards be less than 20 percent.

Shortly after passage of the CAA Amendments in 1990, EPA entered into a regulatory negotiation with interested parties to develop specific proposals for implementing both the RFG and anti-dumping programs. In August 1991, the negotiating committee reached