of at least 40 vehicles from gasoline as a fuel to compressed natural gas.

[FR Doc. 97–16739 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 52 and 81

**[VA–066–5024 and VA–068–5024; FRL–5846–7]**

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

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

**ACTION:** 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.

**EFFECTIVE DATE:** This final rule is effective on July 28, 1997.

**ADDRESSES:** 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and 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

**SUPPLEMENTARY INFORMATION:**

### I. Background

On March 12, 1997, EPA published a direct final rule [62 FR 11337] approving the Commonwealth of Virginia's request to redesignate the Hampton Roads marginal ozone nonattainment area from nonattainment to attainment and the 10 year maintenance plan and mobile emissions budget submitted by the Commonwealth for the Hampton Roads area as revisions to the Virginia SIP. As stated in the March 12, 1997 rulemaking document, EPA's action to approve the redesignation was based upon its review of the Commonwealth's submittal and its determination that all five criteria for redesignation in section 107 of the Act have been met by and for the Hampton Roads area. The ambient air quality data monitored in the Hampton Roads area indicated that it had attained the National Ambient Air Quality Standard (NAAQS) for ozone for the years 1993–1995. Review of the data monitored in 1996 has indicated continued attainment of the ambient standard. EPA also determined that the Commonwealth had a fully approved Part D SIP for the Hampton Roads area, was fully implementing that SIP, and that the air quality improvement in the Hampton Roads area was due to permanent and enforceable control measures. In the same rulemaking, EPA approved the maintenance plan submitted by the Commonwealth of Virginia as a SIP revision because it provides for maintenance of the ozone standard for 10 years and a mobile emissions budget for the Hampton Roads area.

In its March 12, 1997 rulemaking, EPA stated that if adverse comments were received on the direct final rule within 30 days of its publication, EPA would publish a document announcing the withdrawal of its direct final rulemaking action. Because EPA received adverse comments on the direct final rulemaking within the prescribed comment period from the Allies in Defense of Cherry Point and U.S. Senator Lauch Faircloth of North Carolina, EPA withdrew the March 12, 1997 final rulemaking action pertaining to the Hampton Roads nonattainment area. This withdrawal document appeared in the **Federal Register** on April 29, 1997 (62 FR 23139).

A companion proposed rulemaking was published in the Proposed Rules section of the March 12, 1997 **Federal Register** for the Hampton Roads redesignation (62 FR 11405). In the proposed notice, EPA also stated that if adverse comments were received on the direct final action within 30 days of its publication, it would withdraw the direct final rule. In their letter submitting adverse comments, the Allies in Defense of Cherry Point also indicated that they intended to submit additional adverse comments and requested that the comment period on the proposed rulemaking be extended. However, because the 30 day public comment period EPA provided on the proposed rule was due to close two days after receipt of their request, there was insufficient time for EPA to publish a document extending the comment period. In order, therefore, to provide additional time to the Allies in Defense of Cherry Point to review EPA's rulemaking decision and provide additional comment, EPA reopened the public comment period on the proposed rule for a period of two weeks. This notice was published on April 29, 1997 in the **Federal Register** at 62 FR 23196. The second public comment period closed on May 13, 1997.

### II. Response to Comments

EPA received two letters of adverse comment and numerous letters of support for EPA's action to redesignate the Hampton Roads area. Letters of support for EPA's rulemaking decision were received from: all the local governments in the nonattainment area, the Hampton Roads Planning District Commission, the United States Navy, the Office of the Attorney General for the Commonwealth of Virginia; U.S. Senators John Warner and Charles Robb from Virginia and U.S. Congressman Owen Pickett from Virginia, among

others. These parties provided positive comments and are supportive of EPA's approval of the redesignation of the Hampton Roads area to attainment.

Letters providing adverse comments on EPA's rulemaking were received from Senator Lauch Faircloth of North Carolina and the Allies in Defense of Cherry Point, North Carolina (the Allies). The following discussion summarizes and responds to the adverse comments received.

*Comment 1:* Both the Allies and Senator Faircloth stated that, as part of a Base Closure and Realignment (BRAC) decision, the U.S. Navy is assessing the potential environmental impact, including the increase in ozone precursor emissions, of a realignment of fighter jet squadrons from Florida to the Oceana Naval Air Station in the Hampton Roads area. The commenters believe that EPA's decision on the redesignation should be deferred until the draft environmental impact statement and conformity analysis of the Navy's BRAC decision is complete and available for public review.

*Response:* EPA does not agree with this comment. The Clean Air Act Amendments of 1990 established five criteria which must be met for areas to be redesignated to attainment. These criteria are found in section 107 and are listed as follows: (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. Review of environmental impact statements regarding the construction of federal projects within an attainment or nonattainment area are not a consideration during the determination of designations of areas. EPA's review of the Navy's BRAC Draft Environmental Impact Statement and Conformity Analysis determinations are not part of the criteria used for determining whether the Hampton Roads area should be redesignated to attainment. EPA's decision to redesignate the Hampton Roads area to attainment is based solely on the fact that the Hampton Roads area has satisfied all five criteria of the Act.

The Act did make provisions for assuring that future federal actions and transportation projects conform to the state implementation plan emission budgets. All projects funded with federal monies proposed in both air quality nonattainment areas and maintenance areas are subject to the conformity requirements of section 176 of the Act. Regardless of whether Hampton Roads is redesignated to attainment of the ozone standard, the Navy will still be required to make a conformity determination and show that the relocation of the fighter squadrons remains within the emission budgets developed in the Hampton Roads maintenance plan as incorporated into the SIP.

*Comment 2:* The Allies alleged that Virginia has not adequately addressed the potential air quality impacts of the possible BRAC realignment in the maintenance plan. They claim that Virginia should have accounted for the projected increase in mobile source emissions of nitrogen oxides ($NO_X$) associated with the BRAC move and the addition of 5,300 military personnel and their dependents. They also contend that the maintenance plan is inaccurate because it projects zero population growth in federal military personnel for the entire maintenance period and a decrease in federal civilian personnel after the year 2000.

*Response:* EPA does not agree with this comment. Maintenance plans are required to project some reasonable level of growth in the area during the 10-year time span and to demonstrate how increased emissions associated with growth will be offset. The maintenance plan for the Hampton Roads area does project growth in population, economic activity and mobile sources between 1993 and 2008, using standard acceptable methodology. In addition, the Navy's decision regarding the BRAC redeployment to Oceana Naval Air Station in Hampton Roads is not final, and hence remains speculative. The Commonwealth is not required to include potential projects which may or may not happen at some future date in the maintenance plan for the area. As discussed above, the air quality impacts of individual projects are considered during the conformity analysis process. Projects must be able to demonstrate that their potential emissions will remain below the levels established in the emission budgets for the area set in the maintenance plan. Furthermore, the maintenance plan submitted by the Commonwealth contains contingency provisions should the area exceed the levels established in the emissions budgets for the area. In the SIP, the Commonwealth has committed to track levels of emissions and to implement contingency measures to reduce emissions of VOCs should actual emissions in future years rise above the levels established in the maintenance plan.

Despite the fact that the Commonwealth is not required to account for speculative emissions associated with potential growth scenarios in the maintenance plan, the Commonwealth of Virginia went beyond the requirements and did account for potential increased emissions associated with the BRAC relocation in the point source projection year inventory of the maintenance plan for the Hampton Roads area. To make room in the inventory for these potential future emissions, source specific emission caps were placed on two existing large sources of emissions in the Hampton Roads area to offset the anticipated increase in emissions associated with the increase in flight squadrons and related activities of the BRAC relocation. In effect, Virginia has provided a cushion in the budget with 200 tons/year of VOC and 800 tons/year of $NO_X$ reductions in anticipation of the potential increased emissions associated with the relocation, and can still demonstrate that it remains within the levels of the attainment year inventory in the maintenance plan.

*Comment 3:* The Allies commented that they believe the maintenance plan substantially underestimates the growth in vehicle miles traveled (VMT) and emissions from automobiles. They also stated population growth was also underestimated in the maintenance plan in their view, and that VMT growth should be higher than population growth. The Allies claim it is unrealistic to project a consistently declining growth rate in population in a rapidly growing area. The commenter further questions why VMT growth is predicted to drop off dramatically in the 2000–2008 period, compared to the 1988–1993 period.

*Response:* EPA does not agree with these statements made by the commenter. EPA policy on maintenance demonstrations requires states to develop projection year inventories that consider future growth, including population, mobile sources and industry, and to demonstrate that these projections are consistent with the attainment inventory and EPA guidance on inventory development.[1] EPA's guidance document on projecting emissions inventories[2] recommends using U.S. Bureau of Economic Analysis (BEA) growth factors or growth

[1] ''Procedures for Processing Requests to Redesignate Areas to Attainment'', September 4, 1992, memorandum from John Calcagni, Director, Air Quality Management Division.

[2] ''Procedures for Preparing Emissions Projections'', July 1991, EPA–450/4–91–019.

projections from local metropolitan planning organizations (MPOs) for projecting growth in point and area source inventories. The traditional data source for economic indicators used in projecting stationary source growth is the BEA growth factors. BEA has published state, regional and metropolitan statistical area growth factors in ''BEA Regional Projections to 2040''. Following EPA guidance, Virginia properly relied on population growth estimates supplied by BEA in the Hampton Roads maintenance plan. For point source growth, Virginia utilized EPA's developed and approved Economic Growth Analysis System (E–GAS). E–GAS is an economic and activity forecast model that translates the user's assumptions regarding regional economic policies and resource prices into industry growth factors.

The EPA guidance document entitled ''Procedures for Preparing Emissions Projections'' states that the preferred method for performing VMT projections for on-road mobile sources is to use a validated travel demand model. According to EPA's guidance document for preparing emission projections from mobile sources,[3] both EPA and the U.S. Department of Transportation have endorsed the Department of Transportation's Highway Performance Monitoring System (HPMS) as the appropriate source of VMT estimates in SIP development. In response to the comments received on VMT projections, the Virginia Department of Environmental Quality (VADEQ) submitted additional documentation regarding the source of VMT estimates that has been added to the docket. The VMT estimates in the maintenance plan were obtained from the Hampton Roads Planning District commission and the Virginia Department of Transportation (VDOT) and were developed for the official conformity analysis performed annually for the area. VDOT determines VMT estimates using HPMS protocol. The officially recognized MINUTP transportation demand model was used to estimate VMT and related traffic data in the conformity analysis process. The VMT and population growth estimates in the maintenance plan can be verified by comparing the maintenance plan to the conformity documentation for the nonattainment area. Both the VMT and population growth estimates are consistent in the Hampton Roads maintenance plan and approved conformity documents. Furthermore, the predicted population growth in Hampton Roads contained in the maintenance plan and conformity analysis are also consistent with the BEA projections for the same period.

The commenter is incorrect in his statement that the VMT growth rate is smaller than the growth rate assumed for population in the Hampton Roads area. The average annual growth rate from 1993 to 2008 in the maintenance plan for VMT is 1.1692%, while the annual growth rate in population is .834%. It can be seen that VMT is growing annually at a rate that is 40% higher than the annual predicted population growth.

In response to the question ''what accounts for the dramatic decrease in VMT growth rate over historical patterns [after 1993]'', the VADEQ has submitted the following discussion for inclusion in the public record.

> The VMT spike between 1988 and 1993 is due to the opening of a second major water crossing (the I–664 Monitor Merrimac Bridge/Tunnel) in 1992. This provided a new link between the Peninsula and Southside portions of Hampton Roads. This new crossing also provided another way to Virginia Beach and the outer banks of North Carolina which is highly used in the summer months due to the congestion at the I–64 bridge/tunnel crossing. This also opened up a new door for more travel between these two areas by people who normally did not do so before due to traffic congestion and limited travel choices. As can be seen from the VMT estimates after 1993, the level of increase has reverted back to a level consistent with population growth. As with any region of this type which is separated by a large body of water with limited crossings, a new crossing of this size will have a major impact on VMT. Once the impact was initially felt in the early 1990's, the region has been growing at a more normal rate.

Virginia has utilized recognized sources of growth factor surrogates in projecting growth in VMT and population, such as BEA data or local data from the MPOs. EPA has no reason to doubt the credibility of these growth projections.

*Comment 4:* The Allies argued that Virginia's VMT estimates differ sharply from (and are substantially lower than) EPA's own estimates for the Hampton Roads area.

*Response:* The commenter is referring to data compiled in 1993 by EPA to create the annual national air quality trends reports. EPA utilizes VMT data from the HPMS database administered by the U.S. Department of Transportation. There are several complexities associated with using HPMS data to estimate VMT for this inventory. The county is the basic geographic unit in EPA's emissions trends inventory. To the contrary, all data in HPMS are divided into rural, small urban, and individualized urban geographic areas. For the purposes of the trends reports and estimating highways emissions levels on a national basis, EPA uses apportioning schemes to distribute the data and develops county-level VMT estimates. These schemes are estimation tools which allow different areas of the country to be compared based on similar parameters. The methodology EPA uses to apportion these county-level VMT estimates can be found in Section 4 of EPA's ''National Air Pollutant Emission Trends Procedures Document for 1900–1993'', page 4–81. The same schemes were not used to develop the VMT growth estimates in the Hampton Roads maintenance plan. Therefore, it is reasonable to expect that even though both methods of determining VMT are valid, they are for two separate applications. The VMT growth in the Hampton Roads area estimated by Virginia using approved EPA methods in SIP planning, as discussed in the response to the previous comment, may vary from the VMT growth in that same area obtained using the different schemes to determine trends. EPA does not advise that EPA's VMT information from the trends database be used by states in SIP planning. Furthermore, the VMT projections in the EPA trends database for the years 2000 and 2008, quoted by the commenter, are four years old and based on 1993 data. The maintenance plan SIP for the Hampton Roads area relies on more up-to-date and precise information regarding VMT supplied by the Virginia Department of Transportation and the Hampton Roads local metropolitan planning organization.

*Comment 5:* The Allies commented that the three-year attainment period selected by Virginia may not be representative of historical weather conditions in the Hampton Roads area that are conducive to ozone formation. They question whether 1994 and 1995 ozone seasons deviate from the historical weather patterns in Hampton Roads in that they were unusually cool.

*Response:* EPA disagrees with this comment. EPA recognizes that the accumulation of ozone may be dependent upon weather conditions, particularly high temperatures and stagnant air flows. To offset the variability of weather in the production of ozone, EPA requires the use of a three-year period to demonstrate compliance with the ozone standard. EPA relies on a three-year period for determining designation status of an area in part for the reasons being questioned by the commenter: to reduce

[3] ''Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources'', EPA–450/4–81–026d (revised), 1992.

the potential for unrepresentative weather patterns. EPA can see no basis for disregarding quality assured data under the statuate and 40 CFR part 50.9 and Appendix H.

The Hampton Roads area has four years of data which demonstrate compliance with the ozone standard—or two consecutive three year periods, 1993–1995 and 1994–1996, which qualifies the area for redesignation. EPA believes that four years of data present an even stronger case demonstrating that the Hampton Roads area has achieved the ozone standard. It is unlikely that exceptionally good weather conditions could exist for a continuous four year period. More importantly, the commenter has neglected to recognize that several national and state VOC control measures, such as the Federal Motor Vehicle Control Program (FMVCP) and reformulated gasoline, were implemented in the Hampton Roads area during the period between 1991 and 1996, which reduced the amount of ozone precursor emissions. It is important to recognize that these and other emission reduction measures were responsible for bringing the area into attainment of the ozone standard, not favorable weather conditions.

*Comment 6:* Both the Allies and Senator Faircloth commented that Virginia has not adopted conformity regulations as required by section 176 of the Clean Air Act. They contend that EPA should not approve the redesignation unless Virginia has met all requirements of the Clean Air Act for the Hampton Roads area.

*Response:* EPA does not agree with this comment. The Commonwealth of Virginia has adopted both general and transportation conformity rules pursuant to section 176 of the Act in 1996 and submitted these rules to EPA for inclusion into the SIP in the early part of 1997. EPA is presently reviewing both of these submittals and will take rulemaking action on them at a future date.

EPA addressed the conformity requirements for the Hampton Roads area in the March 12, 1997 direct final rulemaking. As noted in the original rulemaking, EPA interprets the conformity requirements of section 176 of the Act as being inapplicable for the purposes of evaluating redesignation requests under section 107(d) of the Act. The rationale for this is twofold. First, the conformity provisions of the Act continue to apply to areas after they have been redesignated to attainment. EPA's conformity rules require states to adopt both transportation and general conformity provisions in their SIPs for areas designated nonattainment or subject to a maintenance plan. Therefore, the Commonwealth is obliged to adopt, submit, and implement conformity regulations in the Hampton Roads maintenance area. Second, EPA's general conformity rules require the performance of conformity analyses in the absence of state adopted rules. Until EPA completes rulemaking action on Virginia's conformity SIP submittals, the Commonwealth is required to implement the federal conformity regulations.

Because areas are subject to conformity requirements regardless of whether they are redesignated to attainment and must implement the federal conformity rules until appropriate state rules are approved into the SIP, it has been EPA's policy to redesignate areas to attainment that meet the requirements of section 107(d)(3)(E) of the Act, even where EPA has not yet approved a state's transportation and general conformity rules. EPA has used this policy many times in the past to redesignate other nonattainment areas to attainment when EPA has not yet approved state conformity regulations. *See* the discussions in 61 FR 31835–31836 (Grand Rapids, MI redesignation, June 21, 1996); 60 FR 52748 (Tampa, FL redesignation, December 7, 1995); and 61 FR 20458 (Cleveland-Akron-Lorraine, OH redesignation, May 7, 1996).

*Comment 7:* The Allies commented that the maintenance demonstration shows a slight increase in $NO_X$ emissions by the year 2008. They further maintain that Virginia should be required to support, through required photochemical modeling, that excess VOC reductions can be used to offset the increase in $NO_X$ emissions. They also stated that ''[w]e seriously question EPA's authority to waive the fundamental 'no net increase' requirement for approval of a maintenance plan.''

*Response:* EPA does not agree with the comment. The commenter has misread the information provided in EPA's technical support document (TSD) developed for this rulemaking. While EPA does mention on page 34 of the TSD that $NO_X$ emissions are projected to increase between the 1999 and 2008, the $NO_X$ emissions in 2008 will still not exceed the $NO_X$ levels of the attainment year inventory. No net increase refers to no net increase above the total level of emissions set in the attainment year inventory for a specific pollutant. The 1993 attainment year level of $NO_X$ emissions is 230.079 tons/day. The level of $NO_X$ is projected to decrease by 1999 to 228.882 tons/day due to control measures, such as FMVCP. Virginia projects that by the year 2008, $NO_X$ emissions will increase again slightly to 229.221 tons/day, a figure attributed to normal growth within the region. However, even considering this slight increase, the level of $NO_X$ emissions in 2008 continues to remain below the 1993 attainment year level.

As a marginal ozone nonattainment area, Hampton Roads is not required to submit photochemical modeling to demonstrate maintenance of the ozone standard. EPA policy allows states to demonstrate maintenance of the ozone standard by showing that future emissions of ozone precursors will not exceed the level of the attainment year inventory. Virginia has met this requirement to demonstrate that the level of both VOC and $NO_X$ emissions will remain below the levels set in the 1993 attainment year inventory.

## III. 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 has determined 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 the policy set forth in the General Preamble and policy memorandum 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 of the Act and the motor vehicle emissions budget for the Hampton Roads area. Other specific requirements of redesignations and maintenance plans and the rationale for EPA's approval action were explained in the March 12, 1997 direct final rulemaking and will not be restated here.

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.

## IV. Administrative Requirements

*A. Executive Order 12866*

This action has been delegated to the Regional Administrator for signature. 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. EPA certifies that the approval of the redesignation request 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 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 August 25, 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirement.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

Dated: June 17, 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 the 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. 7401–7671q.

## 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 [1] | Type | Date [1] | Type |
| Norfolk-Virginia-Beach Newport News (Hampton Roads) Area. | July 28, 1997 | Attainment. | | |
| Chesapeake | | | | |
| Hampton | | | | |
| James City County | | | | |
| Newport News | | | | |
| Norfolk | | | | |
| Poquoson | | | | |
| Portsmouth | | | | |
| Suffolk | | | | |
| Virginia Beach | | | | |
| Williamsburg | | | | |
| York County | | | | |
| * * * * * * * | | | | |

[1] This date is November 15, 1990, unless otherwise noted.

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[FR Doc. 97–16651 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 721

**[OPPTS–50620A; FRL–5723–3]**

**RIN 2070–AB27**

## Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl) bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-; Withdrawal of Significant New Use Rule

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

**ACTION:** Withdrawal of final rule.

**SUMMARY:** EPA is withdrawing a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance generically described as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo- which was the subject of premanufacture notice (PMN) P–93–1111. EPA initially published this SNUR using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on this rule. Therefore, the Agency is withdrawing this rule, as required under the expedited SNUR rulemaking process (40 CFR part 721, subpart D). In a separate notice of proposed rulemaking in today's **Federal Register**, EPA is proposing a SNUR for this substance with a 30-day comment period.

**EFFECTIVE DATE:** This action is effective on June 26, 1997.

**FOR FURTHER INFORMATION CONTACT:** Susan Hazen, Director, Environmental Assistance Division (7408), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In the **Federal Register** of March 1, 1995 (60 FR 11033) (FRL–4868–4), EPA issued several direct final SNURs including a SNUR for the substance generically described as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-, PMN P-93-1111. As described in 40 CFR 721.160, EPA is withdrawing the rule issued for P–93–1111 under direct final rulemaking procedures because the Agency received adverse comments. Pursuant to § 721.160(a)(3)(ii), EPA is proposing a revised SNUR for this chemical substance elsewhere in today's **Federal Register**. For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for this substance which is being withdrawn was established at OPPTS–50620. That record includes information considered by the Agency in developing this rule and the adverse comments to which the Agency is responding with this notice of withdrawal. The docket control number for the withdrawal is OPPTS–50620A. For more information refer to the proposal elsewhere in today's **Federal Register**. The relevent portions of the original docket for the direct final SNUR are being incorporated under OPPTS–50620B, which is established for the proposed rule.

### II. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50620A (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

**Ward Penberthy,**

*Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

## PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).