

tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that this Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this Proposed Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID and Department of

Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone; therefore paragraph (34)(g) of the Instruction applies.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

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

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

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

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–025 is added as follows:

#### § 165.T09–025 Safety Zone Thunder on the Niagara, Niagara River, North Tonawanda, NY.

(a) *Location.* The following area is a temporary safety zone: All waters and the adjacent shoreline of the Upper Niagara River, North Tonawanda, NY within two miles northeast of the Grand Island Bridge (42° 03'36" N, 078° 54'45" W to 43° 03'09" N, 078° 55'21" W to 43° 03'00" N, 078° 53'42" W to 43° 02'42" N, 078° 54'09" W and return). All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective period.* This regulation is in effect from 11 a.m. on June 2 to 6 p.m. on June 3, 2007. This regulation will be enforced from 11 a.m. to 6 p.m. on June 2 and 3, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the

Captain of the Port Buffalo, or the designated on-scene representative.

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

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or the on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all direction given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: May 18, 2007.

**S.J. Ferguson,**

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

[FR Doc. E7–10500 Filed 5–31–07; 8:45 am]

BILLING CODE 4910–15–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0917; FRL–8320–8]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Richmond-Petersburg 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base-Year Inventory

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The Virginia Department of Environmental Quality (VADEQ) is requesting that the Richmond-Petersburg nonattainment area (herein referred to as the "Richmond Area" or the "Area") be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Richmond Area that

provides for continued attainment of the 8-hour ozone NAAQS for the next 11 years, until 2018. Concurrently, EPA is approving the Commonwealth's maintenance plan for the 8-hour ozone standard. EPA is not taking final action in this rulemaking on the Commonwealth's request that the 8-hour maintenance plan supersede the previous maintenance plan for the 1-hour standard. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Richmond 8-hour maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is also approving the 2002 base year emissions inventory for the Area. EPA is approving the redesignation request, the maintenance plan, and the 2002 base year emissions inventory as revisions to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on June 18, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2006-0917. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Amy Caprio, (215) 814-2156, or by e-mail at [caprio.amy@epa.gov](mailto:caprio.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On April 12, 2007 (72 FR 18434), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. On May 10, 2007 (72 FR 26581), EPA published a correction to the NPR. The correction to the NPR fixed Table 5 in the original NPR. The NPR proposed approval of Virginia's redesignation request, a SIP

revision that establishes a maintenance plan for the Richmond Area that sets forth how the Richmond Area will maintain attainment of the 8-hour ozone NAAQS for the next 11 years, and a 2002 base year emissions inventory. The formal SIP revisions were submitted by the VADEQ on September 18, 2006, September 20, 2006, September 25, 2006 and supplements on November 17, 2006 and February 13, 2007. Other specific requirements of Virginia's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here. On May 14, 2007, EPA received a comment, from Dominion Resources Services, Inc., in support of its April 12, 2007 NPR. Also, On May 11, 2007, EPA received adverse comments on the said April 12, 2007 NPR. A summary of the comments submitted and EPA's responses are provided in Section II of this document.

**II. Summary of Public Comments and EPA Responses**

*Comment:* The commenter states that Dominion Resources Services, Inc. supports EPA's redesignation proposal for the Richmond-Petersburg Area and urges EPA to move forward with a final redesignation rulemaking.

*Response:* EPA acknowledges the comment of support for our final action.

*Comment:* We received comments that claimed Virginia had not fulfilled all applicable Part D requirements under the 8-hour NAAQS. Specifically, the comments claimed that because the Richmond area was initially designated as a moderate nonattainment area Virginia was required to have provisions in the SIP for the following three control technique guidelines (CTGs): (1) Reactor Processes and Distillation Processes (notice of release: 58 FR 60197, November 15, 1993); (2) Wood Furniture manufacturing Operations (notice of release: 61 FR 25223, May 20, 1996); and, (3) Shipbuilding and Ship repair Surface Coating Operations (notice of release: 61 FR 44050, August 27, 1996).

*Response:* EPA disagrees with the comment. While the Richmond area was initially classified as a moderate ozone nonattainment area for the 8-hour ozone NAAQS in an April 30, 2004 final rule (69 FR 23858), the area was reclassified as marginal by a September 22, 2004 final rule (69 FR 56697) pursuant to the authority of section 181(a)(4) of the CAA. Under section 181(a)(4), an ozone nonattainment area may be reclassified "if an area classified under paragraph (1) (Table 1) would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which

such classification was based." See 69 FR at 56700, September 22, 2004.

Under subpart 2 to Part D, the classification of an ozone nonattainment area has three main consequences: First, certain control programs, required SIP submissions and other requirements are mandated by section 182; second, the area receives a statutorily mandated attainment date pursuant to section 181; and, last, in the case of marginal areas, certain requirements under section 172(c), such as an attainment demonstration or contingency measures, are not applicable. In addition, with respect to Reasonably Available Control Technology (RACT), section 182(a)(2)(A), which sets forth the specifics of the applicable Part D requirements for marginal areas, only requires states correct certain deficiencies in their RACT SIP which were required prior to enactment of the 1990 Amendments to the CAA on November 15, 1990. With respect to CTG RACT requirements, section 182(a)(2)(A) required correction of deficiencies in rules to implement CTGs issued before November 15, 1990. In contrast, for moderate areas section 182(b)(2) of the CAA requires among other things implementation of RACT for any existing sources covered by any CTG issued by EPA after November 15, 1990 until the date of attainment. The CTGs specified in the comment were all issued after November 15, 1990 and therefore not subject to section 182(a)(2)(A).

*Comment:* We received comments that claimed Virginia had not fulfilled all applicable Part D requirements under the 1-hour NAAQS. Specifically, the comments claimed that because the Richmond area was designated as a moderate nonattainment area Virginia was required to have provisions in the SIP for the following three control technique guidelines (CTGs): (1) Reactor Processes and Distillation Processes (notice of release: 58 FR 60197, November 15, 1993); (2) Wood Furniture manufacturing Operations (notice of release: 61 FR 25223, May 20, 1996); and, (3) Shipbuilding and Ship repair Surface Coating Operations (notice of release: 61 FR 44050, August 27, 1996).

*Response:* EPA redesignated the Richmond nonattainment area from nonattainment for attainment for the 1-hour NAAQS on November 17, 1997. In that action, EPA made a final determination that the area had fulfilled all applicable Part D requirements. We have not re-opened that issue in the context of this rulemaking.

*Comment:* The commenter states that the April 12, 2007 **Federal Register** states that EPA ". . . notified Virginia

that it was required to implement the contingency measures contained in the SIP approved maintenance plan” (referring to the 1-hour ozone plan). The commenter states that there were violations of the 1-hour ozone standard in 1998, 1999, 2000, 2001, 2002, 2003 and 2004. The commenter requests clarification whether contingency measures for the 1-hour ozone violations were implemented.

*Response:* EPA asserts that implementation of previous contingency measures for the 1-hour ozone standard is irrelevant to the approval of the 8-hour ozone redesignation request. The Richmond Area is currently in attainment with the 8-hour ozone standard. The redesignation of the Richmond Area for the 1-hour ozone standard (62 FR 61237, November 17, 1997) addressed the 1-hour ozone requirements adequate for redesignation of the 1-hour ozone standard. The status of contingency measures for the 1-hour maintenance plan is not an applicable Part D requirement for implementation of or redesignation for the 8-hour ozone standard and therefore is not relevant to this action.

However, in response to the request for clarification, several inaccuracies in the comment are of note. First, the commenter incorrectly references the April 12, 2007 **Federal Register**. The statement quoted is not found in the April 12, 2007 **Federal Register** notice of proposed rulemaking, nor in any of the supporting documents associated with the proposed 8-hour ozone redesignation request for the Richmond Area. The statement is actually found in an unrelated proposed rule dated October 7, 2002, pertaining to revisions to the 1-hour ozone maintenance plan. This proposed rule was not finalized. Second, the commenter incorrectly reports the violations of the 1-hour standard. There were violations of the 1-hour NAAQS only in the years 1998, 1999 and 2002.

Regarding the implementation of contingency measures for these 1-hour ozone violations, in response to the 1998 and 1999 violations, open burning restrictions were implemented by a state regulation as a contingency measure in 2000. Also, the Commonwealth implemented additional control measures, including the NO<sub>x</sub> SIP Call, after the 2002 1-hour ozone violation.

*Comment:* The commenter states that the Henrico County Monitor measured exceedances of the 8-hour ozone standard during the 2005 and 2006 ozone season and that EPA should either delay final approval of the redesignation request until the end of the 2007 ozone season to determine if

this monitor shows a violation of the 8-hour ozone standard, or EPA should conduct an evaluation on whether this monitor is projected to have no more than three exceedances during 2007.

*Response:* EPA acknowledges that preliminary 2006 air quality data indicates a fourth high value of 0.086 parts per million (ppm) at the Henrico County monitor.<sup>1</sup> However, in accordance with Appendix I to 40 CFR part 50, compliance with the 8-hour ozone NAAQS is met at an ambient air monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm; it is not based on the number of days which exceed the 8-hour ozone standard. 40 CFR 50.10 and Appendix I. The preliminary four highest 8-hour ozone monitoring values at the Henrico County, Virginia monitor (one of the monitors located in the Richmond Area) for 2006 were 0.097 ppm, 0.096 ppm, 0.086 ppm, and 0.086 ppm. The design value at the Henrico County monitor for monitoring years 2003–2005 shows attainment of the 8-hour NAAQS with a design value of 0.080 ppm. In addition, preliminary 2004–2006 air quality data indicate that the Henrico County monitor continues to show attainment of the 8-hour NAAQS with a design value of 0.081 ppm. Thus exceedances at this monitor did not prevent the area from reaching and continuing to show attainment of the 8-hour standard. Preliminary data from other monitors in the area also showed attainment. See Table 1 below for preliminary 2006 air quality monitoring data.

TABLE 1.—RICHMOND MONITORS, PRELIMINARY FOURTH HIGHEST 8-HOUR OZONE CONCENTRATIONS  
[Parts per million (ppm)]

Monitor	AQS ID No.	2006
Chesterfield County .....	510410004	0.077
Henrico County	510870014	0.086
Hanover County	510850003	0.082
Charles City County .....	510360002	0.081

The Chesterfield County monitor would have an 8-hour design value for 2004–2006 of 0.076 ppm. The Henrico County monitor would have an 8-hour design value for 2004–2006 of 0.081 ppm. The Hanover County monitor would have an 8-hour design value for 2004–2006 of 0.081. The Charles City

<sup>1</sup> It should be noted that the Hanover County Monitor was the design value monitor during monitoring years 2003–2005 having a design value of 0.082 ppm.

County monitor would have an 8-hour design value for 2004–2006 of 0.080. These preliminary data and design values show that the site-specific ozone design values (average fourth-high daily maximum 8-hour ozone concentrations over the period of 2004–2006) for all monitoring sites in the Richmond Area are below 0.084 ppm. Therefore, the EPA believes that the Richmond Area continues to attain the 8-hour ozone NAAQS.

With regard to delaying approval of the Richmond Area redesignation request and conducting an evaluation of the monitor, EPA may redesignate an Area to attainment of the 8-hour ozone NAAQS if three years of quality assured data indicate that the Area has attained the standard. The most recent quality-assured air quality data indicates that the Area is attaining the standard and preliminary data for 2006 show that the Area is still attaining the standard at the time of the redesignation. EPA has determined that the Richmond Area has attained the 8-hour standard and has met all of the applicable requirements for redesignation pursuant to section 107(d)(3)(E) of the Clean Air Act.<sup>2</sup> The Commonwealth’s maintenance plan demonstrates that the Area is projected to maintain the standard. Consistent with the requirements of section 175A and 107(d)(3)(E) of the CAA, the Commonwealth has submitted a maintenance plan for the Richmond Area for the 8-hour ozone standard which shows continued maintenance and continuing reductions in NO<sub>x</sub> and VOC emissions through 2018 further decreasing peak ozone levels and maintaining ozone attainment. Furthermore, as demonstrated by the contingency measure provisions required by section 175A(d), the CAA clearly anticipates and provides for situations where an area might monitor a violation of the NAAQS after having been redesignated to attainment. The Commonwealth has included contingency measure provisions consistent with CAA requirements in its

<sup>2</sup> Section 107(d)(3)(E) of the CAA, allows for redesignation, providing that: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) The State containing such area has met all requirements applicable to the area under section 110 and Part D.

maintenance plan to address any possible future violation of the NAAQS.

EPA believes that the contingency measures, which are a component of the maintenance plan, set forth the steps that the Commonwealth will undertake to preserve attainment of the 8-hour ozone standard if air quality indicators show that the air quality of the Richmond Area has declined to the point when contingency measures to reverse that deterioration of air quality should begin being implemented. Thus, for all the above reasons, EPA sees no reason to delay approval of the Commonwealth's redesignation request.

### III. Final Action

EPA is approving the Commonwealth of Virginia's redesignation request, maintenance plan, and 2002 base year emissions inventory because the requirements for approval have been satisfied. EPA has evaluated Virginia's redesignation request, submitted on September 20, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Richmond Area has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Richmond Area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for the Richmond Area, submitted on September 25, 2006, as a revision to the Virginia SIP. EPA is approving the 8-hour maintenance plan for the Richmond Area because it meets the requirements of section 175A. EPA is not taking final action in this rulemaking on the Commonwealth's request that the 8-hour maintenance plan supersede the previous 1-hour maintenance plan. EPA is approving the MVEBs submitted by Virginia in conjunction with its redesignation request. EPA is also approving the 2002 base year emissions inventory, submitted on September 18, 2006 and supplemented by VADEQ on November 17, 2006 and February 13, 2007, as a revision to the Virginia SIP. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO<sub>x</sub> and VOCs in the Richmond Area for the 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, the Cities of Petersburg, Colonial Heights, Hopewell, and Richmond, and the Counties of Prince George, Chesterfield, Hanover, Henrico, and Charles City, Virginia must use the MVEBs from the submitted 8-hour

ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS (MVEBs) IN TONS PER DAY (TPD)		
Budget year	NO <sub>x</sub>	VOC
2011 .....	43.661	32.343
2018 .....	26.827	23.845

Richmond is subject to the CAA's requirements for marginal ozone nonattainment areas until and unless it is redesignated to attainment.

### IV. Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This final rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on

the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it affects the status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

#### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**C. Petitions for Judicial Review**

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, to approve the redesignation request, maintenance plan, adequacy determination for MVEBs, and the 2002 base year emissions inventory for the Richmond Area, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects**

**40 CFR Part 52**

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

**40 CFR Part 81**

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

Dated: May 25, 2007.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

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

**PART 52—[AMENDED]**

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

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

**Subpart VV—Virginia**

■ 2. In § 52.2420, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan, Richmond-Petersburg, VA Area at the end of the table to read as follows:

**§ 52.2420 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Richmond-Petersburg, VA Area.	9/18/06; 9/20/06; 9/25/06; 11/17/06; 2/13/07.	6/1/07 [Insert page number where the document begins].	

**PART 81—[AMENDED]**

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

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

■ 4. In § 81.347 the table entitled "Virginia—Ozone (8-Hour Standard)" is amended by revising the entry for the

Richmond-Petersburg, VA area to read as follows:

**§ 81.347 Virginia**

\* \* \* \* \*

**VIRGINIA—OZONE**  
[8-hour standard]

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
<b>Richmond-Petersburg, VA Area</b>				
Charles City County .....	6/18/07	Attainment.		
Chesterfield County .....	6/18/07	Attainment.		
Colonial Heights City .....	6/18/07	Attainment.		
Hanover County .....	6/18/07	Attainment.		
Henrico County .....	6/18/07	Attainment.		
Hopewell City .....	6/18/07	Attainment.		
Petersburg City .....	6/18/07	Attainment.		
Prince George County .....	6/18/07	Attainment.		
Richmond City .....	6/18/07	Attainment.		

<sup>a</sup> Includes Indian country located in each county or area except otherwise noted.

<sup>1</sup> This date is June 15, 2004, unless otherwise noted.

\* \* \* \* \*

[FR Doc. E7-10582 Filed 5-31-07; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[EPA-R03-OAR-2006-0919; FRL-8320-9]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Hampton Roads 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base-Year Inventory****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The Virginia Department of Environmental Quality (VADEQ) is requesting that the Norfolk-Virginia Beach-Newport News (Hampton Roads) nonattainment area (herein referred to as the "Hampton Roads Area" or the "Area") be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the Commonwealth submitted a SIP revision consisting of a maintenance plan for the Hampton Roads Area that provides for continued attainment of the 8-hour ozone NAAQS for the next 11 years, until 2018. Concurrently, EPA is approving the Commonwealth's request that the 8-hour maintenance plan supersede the previous 1-hour maintenance plan. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Hampton Roads 8-hour maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is also approving the 2002 base year emissions inventory for the Area. EPA is approving the redesignation request, the maintenance plan, and the 2002 base year emissions inventory as revisions to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on June 1, 2007 pursuant to the authority of 5 U.S.C. 553(d)(1).

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2006-0919. All documents in the docket are listed in the *www.regulations.gov* Web site.

Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Amy Caprio, (215) 814-2156, or by e-mail at *caprio.amy@epa.gov*.

**SUPPLEMENTARY INFORMATION:****I. Background**

On April 13, 2007 (72 FR 18602), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of Virginia's redesignation request, a SIP revision that establishes a maintenance plan for the Hampton Roads Area that sets forth how the Hampton Roads Area will maintain attainment of the 8-hour ozone NAAQS for the next 11 years, and a 2002 base year emissions inventory. The formal SIP revisions were submitted by the VADEQ on October 12, 2006, October 16, 2006, October 18, 2006, and supplemented on November 20, 2006 and February 13, 2007. Other specific requirements of Virginia's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

**II. Final Action**

EPA is approving the Commonwealth of Virginia's redesignation request, maintenance plan, and 2002 base year emissions inventory because the requirements for approval have been satisfied. EPA has evaluated Virginia's redesignation request, submitted on October 16, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Hampton Roads Area has attained the 8-hour ozone standard. The final approval of this

redesignation request will change the designation of the Hampton Roads Area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for the Hampton Roads Area, submitted on October 18, 2006, as a revision to the Virginia SIP. EPA is approving the maintenance plan for the Hampton Roads Area because it meets the requirements of section 175A. EPA is approving the Commonwealth's request that the 8-hour maintenance plan supersede the previous 1-hour maintenance plan. EPA is approving the MVEBs submitted by Virginia in conjunction with its redesignation request. EPA is also approving the 2002 base year emissions inventory, submitted on October 12, 2006 supplemented by VADEQ on November 20, 2006 and February 13, 2007, as a revision to the Virginia SIP. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO<sub>x</sub> and VOCs in the Hampton Roads Area for the 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, and the Counties of Isle of Wight, James City, and York, Virginia must use the MVEBs from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

**ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS (MVEBs) IN TONS PER DAY (TPD)**

Budget year	NO <sub>x</sub>	VOC
2011 .....	50.387	37.846
2018 .....	31.890	27.574

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

**III. Statutory and Executive Order Reviews****A. General Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May