

US EPA ARCHIVE DOCUMENT

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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_x 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 _x	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

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 Hampton Roads 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 17, 2007.

W.T. Wisniewski,
Acting 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, Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area at the end of the table to read as follows:

§ 52.2420 Identification of plan.

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(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.	Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area.	10/12/06; 10/16/06; 10/18/06; 11/20/06; 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 Norfolk-Virginia Beach-Newport News

(Hampton Roads), VA area to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA—OZONE

[8-hour standard]

Designated area	Designation ^a		Category/Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area				
Chesapeake City	6/1/07	Attainment.		
Gloucester County	6/1/07	Attainment.		
Hampton City	6/1/07	Attainment.		
Isle of Wight County	6/1/07	Attainment.		
James City County	6/1/07	Attainment.		
Newport News City	6/1/07	Attainment.		
Norfolk City	6/1/07	Attainment.		
Poquoson City	6/1/07	Attainment.		
Portsmouth City	6/1/07	Attainment.		
Suffolk City	6/1/07	Attainment.		
Virginia Beach City	6/1/07	Attainment.		
Williamsburg City	6/1/07	Attainment.		
* * * * *				

^a Includes Indian country located in each county or area except otherwise noted.

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

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 070518109-7109-01; I.D. 030107B]

RIN 0648-AU60

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2007

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement recreational management measures for the 2007 summer flounder fishery and to notify the public that the recreational management measures for the scup and black sea bass fisheries remain the same as in 2006. The actions of this final rule are necessary to comply

with regulations implementing the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) as well as to ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Effective July 2, 2007, except for the amendment to § 648.107(a) introductory text, which is effective June 1, 2007.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901-6790. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.noaa.gov>. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are

available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281-9104.

SUPPLEMENTARY INFORMATION:**Background**

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and its implementing regulations, which are found at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational management measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 nautical miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern vessels fishing in the exclusive