

SIP revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 11, 1997.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 566-2182, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the Rules and Regulations section of this Federal Register.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 10, 1997.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 97-6074 Filed 3-11-97; 8:45 am]

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40 CFR Part 52

[VA059-5016b and VA060-5016b; FRL-5698-2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Standards for Volatile Organic Compound (VOC) Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia for the purpose of establishing amendments to Virginia's controls on sources of volatile organic compound (VOC) emissions in the Northern Virginia portion of the Metropolitan Washington D.C. serious ozone nonattainment area and the Richmond moderate ozone nonattainment area. These revisions were submitted to impose additional control measures on sources of VOCs to provide emissions reductions creditable toward the 15% Rate of Progress (ROP) Plan in the Northern Virginia portion of the Metropolitan Washington D.C. nonattainment area; and to impose additional control measures in the Richmond nonattainment area to reduce VOC emissions. In the Final Rules section of this Federal Register, EPA is approving the Commonwealth's SIP revisions via direct final rule without prior proposal because the Agency views these as noncontroversial SIP revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 11, 1997.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, (215) 566-2092.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located

in the Rules and Regulations Section of this Federal Register.

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

Dated: February 25, 1997.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 97-6081 Filed 3-11-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[VA 045-5018; FRL-5698-3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; 15 Percent Rate of Progress Plan for the Metropolitan Washington, DC Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing conditional interim approval of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the Northern Virginia portion of the Metropolitan Washington, DC serious ozone nonattainment area to meet the 15 percent rate-of-progress (ROP) requirements (also known as the 15% plan) of the Clean Air Act. EPA is proposing a conditional interim approval, because the 15% plan, submitted by the Commonwealth of Virginia, will result in significant emission reductions from the 1990 baseline emissions of volatile organic compounds (VOCs) which contribute to the formation of ground level ozone and, thus, will improve air quality. However, the plan as submitted requires additional documentation to demonstrate affirmatively that the 15% emission reduction target has been achieved. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments on this proposed action must be postmarked by April 11, 1997.

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

the visiting day. Copies of the documents relevant to this action are also available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Clean Air Act, as amended in 1990 (the Act), requires ozone nonattainment areas classified as moderate or above to develop plans to reduce VOC emissions by 15% from 1990 baseline levels in the area while accounting for growth from 1990 to 1996. VOCs emitted during the summertime months contribute to the formation of ground level ozone.

The Metropolitan Washington, DC area is classified as a serious ozone nonattainment area and is subject to the 15% plan requirement. The Metropolitan Washington, DC ozone nonattainment area consists of the entire District of Columbia ("the District"), five counties in the Northern Virginia area and five counties in Maryland. The Northern Virginia portion of the nonattainment area consists of the counties of Arlington, Fairfax, Loudoun, Prince William and Stafford, and the cities of Alexandria, Falls Church, Manassas, Manassas Park and Fairfax. These areas are subject to Virginia's 15% plan.

The Act sets limitations on the creditability of certain control measures towards reasonable further progress. Specifically, states cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g. new car emissions standards) promulgated prior to 1990; or for reductions stemming from regulations promulgated prior to 1990 to lower the volatility (i.e., Reid Vapor Pressure (RVP)) of gasoline. Furthermore, the Act does not allow credit towards ROP for post-1990 corrections to existing motor vehicle inspection and maintenance (I/M) programs or corrections to reasonably available control technology (RACT) rules, since these programs were

required to be in-place prior to 1990. In addition to these restrictions, a creditable measure must be either in the approved SIP, result from a national rule promulgated by EPA or be contained in a permit issued under Title V of the Act. Any measure must result in real, permanent, quantifiable and enforceable emission reductions to be creditable toward the 15% goal.

Virginia, Maryland and the District all must demonstrate reasonable further progress for the Metropolitan Washington DC nonattainment area. The Commonwealth of Virginia, State of Maryland and the District of Columbia in conjunction with municipal planning organizations collaborated on a coordinated, 15% plan for the Metropolitan Washington, DC nonattainment area (regional 15% plan). This was done with the assistance of the regional air quality planning committee, the Metropolitan Washington Air Quality Committee (MWAQC), and the local municipal planning organization, the Metropolitan Washington Council of Governments (MWCOC), to ensure coordination of air quality and transportation planning. The Act provides for interstate coordination for multi-state nonattainment areas. Because the interstate municipal planning organization involved, MWCOC, meets the requirements of section 174(c) of the Act, EPA has determined that the relevant interstate coordination requirements have been fulfilled. In the absence of an agreement to prepare a nonattainment area-wide plan, each state could have developed and submitted a SIP revision to obtain the 15% ROP requirement independent of the others.

Although the plan was developed by a regional approach, each jurisdiction is required to submit its portion of the 15% plan to EPA as a revision to its SIP. The 15% plan for the Virginia portion of the nonattainment area was submitted as a SIP revision by the Virginia Department of Environmental Quality (VADEQ) on May 15, 1995. Because the ROP requirements such as the 15% plan affect transportation improvement plans, municipal planning organizations have historically been involved in air quality planning in the Metropolitan Washington, DC area. As explained in further detail below, the regional 15% plan determined the regional target level, regional projections of growth and the total amount of creditable reductions required under the 15% requirement in the entire Metropolitan Washington, DC ozone nonattainment area. The three jurisdictions, Maryland, Virginia and the District all agreed to apportion this

total amount of required creditable reductions among themselves. EPA is taking action today only on Virginia's 15% plan submittal, which addresses only Virginia's responsibility for the 15% ROP plan in the Metropolitan Washington, DC area.

On January 30, 1997 Virginia submitted a draft revised regional 15% plan for its portion of the Metropolitan Washington, DC area. Virginia scheduled a public hearing on the proposed revisions to its 15% plan on February 27, 1997. EPA is taking action today on Virginia's May 15, 1995 submittal of its 15% plan with the knowledge that Virginia will be making a formal SIP revision revising that 15% plan.

EPA has reviewed Virginia's May 15, 1995 15% plan submittal and has identified several deficiencies, which prohibit its full approval. A detailed discussion of these deficiencies is included below in the "ANALYSIS" portion of this rulemaking action, and also in the Technical Support Document (TSD) prepared by EPA for this action. Copies of the TSD are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice. Due to these deficiencies, it cannot be affirmatively determined that the Commonwealth's plan achieves the 15% ROP target for reduction in VOCs. Therefore, EPA is proposing conditional interim approval of this plan.

II. Analysis of the SIP Revision

A. Base Year Emissions Inventory

The baseline from which states must determine the required reductions for 15% planning is the 1990 base year emissions inventory. The relevant portion of the inventory is broken down into several emission source categories: Stationary, area, on-road mobile, and off-road mobile. Virginia submitted a formal SIP revision containing their 1990 base year emissions inventory on November 20, 1992 and submitted revisions to that submittal on November 1, 1993 and April 3, 1995. EPA approved Virginia's 1990 base year inventory submittals on September 16, 1996 (61 FR 48632). This full approval establishes the 1990 base year inventory for the purposes of calculating the 15% ROP requirement.

B. Growth in Emissions Between 1990 and 1996

EPA has interpreted the Act to require that reasonable further progress towards attainment of the ozone standard must be obtained after offsetting any growth expected to occur over that period. Therefore, to meet the 15% plan

requirement, a state must enact measures achieving sufficient emissions reductions to offset projected growth in VOC emissions, in addition to achieving a 15% reduction of VOC emissions from baseline levels. Thus, an estimate of emissions growth from 1990 to 1996 is necessary for determining whether the 15% reduction target has been achieved. Growth is calculated by multiplying the 1990 base year inventory by acceptable forecasting indicators. Growth must be determined separately for each source, or by source category, since sources typically grow at different rates. EPA's inventory preparation guidance recommends the following indicators, as applied to emission units in the case of stationary sources or to a source category in the case of area sources, in order of preference: Product output, value added, earnings, and employment. Population can also serve as an acceptable surrogate indicator.

Virginia's 15% plan contains growth projections for point, area, on-road motor vehicle, and non-road vehicle source categories. For a detailed description of the growth methodologies used by the Commonwealth, please refer to the TSD for this action.

To estimate growth for area sources and non-road mobile sources, Virginia used acceptable growth factor surrogates such as population, employment and vehicle miles traveled (VMT). The travel demand computer model, Mobile5.0a was used to project growth for on-road sources. The Commonwealth's methodology for selecting growth factors and applying them to the 1990 base year emissions inventory to estimate growth in emissions in area, on-road mobile, and off-road mobile sources from 1990 to 1996 is approvable.

EPA, however, disagrees with the growth projections for the point source category. Virginia's 15% plan projected that point source emissions would remain constant for the period 1990 to 1996 because Virginia assumes that new source review (NSR) offsets and special rules for modifications of sections 182(c)(6), (7), (8), and (10) of the Act would prevent an increase in point source emissions. EPA does not agree

with this assumption for the following reasons:

1. The revised NSR rules for source modifications were not effective until November 15, 1992. Therefore, there may have been modifications of sources of less than the significance level of 40 tons per year (TPY) from 1990 to 1992. A potential 40 TPY increase could represent a 0.1 to 0.15 tons per season day (TPD) potential increase which is significant compared to the 1990 area-wide rate-of-progress (i.e. 1990 base year) inventory point source emissions of 18 TPD.

2. The revised NSR rules do not apply to cumulative modifications at a source of less than 25 TPY (de minimis modifications) nor to construction of new sources of less than 25 TPY potential emissions. For inventory purposes, point sources are defined as stationary sources with the potential to emit 10 TPY or more.

3. The NSR offset-related assumption does not address increases in emissions from sources that operated at less than 100% capacity during 1990 that can legally increase their typical ozone season day emissions by increasing the average daily production without triggering NSR offset requirements.

EPA cannot fully approve Virginia's point source growth projection based upon the assumption that the NSR program would hold point source emissions constant. As a condition of final approval, Virginia will have to remedy this deficiency and revise the 15% plan to:

1. Project growth in point source emissions between 1990 and 1996 using growth factors based upon an adequate surrogate in accordance with the applicable EPA guidance documents. Such a projection may be based upon more recent emissions data than 1990, e.g. from current emission statements where available; and

2. Adopt and implement, if necessary, additional creditable measures to ensure that growth in point source emissions from 1990 to 1996 is offset.

It is relevant to note that Virginia has included growth in point sources, based on actual growth between 1990 and 1996, in the January 30, 1997 revised draft regional 15% plan subject to public hearing on February 27, 1997.

C. Calculation of Target Level Emissions

The regional 15% plan calculates a target level of emissions to meet the 15% ROP requirement over the entire nonattainment area. The regional 15% plan projects emissions growth from 1990 to 1996 and apportions among the three jurisdictions the amount of creditable emission reductions that each jurisdiction must achieve in order for the entire nonattainment area to achieve a 15% reduction in VOCs net of growth. Each jurisdiction then adopted the regional plan, which identified the amount of creditable emission reductions which that jurisdiction must achieve for the regional plan to get 15% accounting for any growth. The regional plan calculated the "target level" of 1996 VOC emissions, in accordance with EPA guidance.

EPA has interpreted section 182(b) of the Act to require that the base year VOC emission inventory be adjusted to account for reductions that would occur from the pre-1990 FMVCP and RVP programs. First, the regional plan calculated the non-creditable reductions from the pre-1990 FMVCP and RVP programs and subtracted those emissions from the 1990 ROP inventory. This yields the 1990 "adjusted base year inventory". The target level is the 1990 rate-of-progress inventory less the sum of the following:

1. 15% of the adjusted base year inventory,
2. The sum of the non-creditable reductions from the pre-1990 FMVCP and RVP programs,
3. Any reductions resulting from post-1990 corrections to existing motor vehicle inspection and maintenance (I/M) programs or corrections to RACT rules.

There were no post 1990 emission reductions attributed to RACT corrections or I/M corrections in the Metropolitan Washington, DC nonattainment area, and the regional plan correctly claimed zero reductions in the target level calculation.

The table below summarizes the calculations for the 1996 VOC target level for the entire Metropolitan Washington, DC ozone nonattainment area.

CALCULATION OF REQUIRED REDUCTIONS FOR THE WASHINGTON, DC NONATTAINMENT AREA'S 15% PLAN

[Washington, DC Area Target Level Calculation]

	District of Columbia	Maryland	Virginia	Washington, DC Area Totals
1. 1990 ROP Inventory	65.9	249.9	222.8	538.6
2. 1990 Adjusted Base Year Inventory	56.3	216.9	190.7	463.9
3. FMVCP/RVP Adjustment (Line 1 less Line 2)	9.60	33.00	32.10	74.70

CALCULATION OF REQUIRED REDUCTIONS FOR THE WASHINGTON, DC NONATTAINMENT AREA'S 15% PLAN—Continued
[Washington, DC Area Target Level Calculation]

	District of Columbia	Maryland	Virginia	Washington, DC Area To- tals
4. 15% Reduction Requirement=15% of Adjusted Base Year (.15×Line 4)	8.45	32.54	28.61	69.6
5. RACT Corrections	0	0	0	0
6. I/M Corrections	0	0	0	0
7. Total 15% & Noncreditable Reductions (Sum of lines 3, 4, 5 & 6)	18.05	65.54	60.71	144.30
8. Projected Growth 1990 to 1996	5.20	29.10	29.00	63.60
9. Required Regional Emission Reductions (15% plus growth—line 4 plus line 8)				132.90
10. 1996 Regional Target Level (line 1 less line 7)				394.30
11. Apportioned State Emission Reduction	12.3	60.7	59.9	132.90
12. Total Reductions Claimed in 15% Plan	12.7	62.7	61.8	137.20

The emission reduction required to meet the 15% ROP requirement equals the sum of 15% of the adjusted base year inventory and any reductions necessary to offset emissions growth projected to occur between 1990 and 1996, plus reductions that resulted from corrections to the I/M or VOC RACT rules that were required to be in-place before 1990. The target level, Line 10 of the Table, is the 1990 ROP inventory less the base 15% reduction (Line 4 of the Table) and less all noncreditable emission reductions (Lines 3, 5 and 6 of the Table). The Metropolitan Washington D.C. area's regional target level is 394.3 TPD. EPA believes that the regional target level for the Metropolitan Washington D.C. nonattainment area has been properly calculated in accordance with EPA guidance.

D. Control Strategies in Virginia's 15% Plan

The specific measures adopted (either through state or federal rules) are addressed, in detail, in Virginia's 15% plan. The following is a brief description of each control measure that Virginia has claimed credit for in the submitted 15% plan, as well as the results of EPA's review of the use of that strategy towards the Act's 15% ROP requirement.

Reformulated Gasoline (RFG)

Section 211(k) of the Act requires that, beginning January 1, 1995, only RFG be sold or dispensed in ozone nonattainment areas classified as severe or above. Gasoline is reformulated to reduce combustion by-products and to produce fewer evaporative emissions. Section 211(k)(6) of the Act allows other nonattainment areas to "opt in" to the program. Virginia submitted a request to opt-in to the RFG program, which EPA approved on December 23, 1991. The Commonwealth claims a reduction of 9.3 tons/day from its 1996 projected uncontrolled on-road mobile source emissions using the Mobile5.0a model

to determine the emission benefit. EPA has reviewed the Virginia submittal's calculation of the benefits for this measure and finds that the amount of reduction Virginia claims is creditable, but has not been documented as required by the Act.

In order to address these documentation and modeling issues, as well as the requirements of the National Highway Systems Designation Act of 1995 (NHSDA), EPA is requiring Virginia to recalculate the mobile source credits for the enhanced I/M program, RFG and FMVCP (Tier 1). The benefits from RFG and Tier 1 must not be separated out on a tons per day basis for each control measure, but rather all mobile source measures must be included in the 1999 target level calculation run. This remodeling assessment will remove any potential for "double-counting" the credit accorded to individual mobile source measures. While EPA will require Virginia to document and remodel the credits derived from RFG under the remodeling condition cited in the enhanced I/M section of this rule, EPA has no reason to dispute at this time that the 9.3 tons/day emission benefit claimed in Virginia's 15% plan from the RFG program is creditable.

Off-Road Use of Reformulated Gasoline

The use of RFG will also result in reduced emissions from off-road engines such as motors for recreational boats and lawn mower engines, commonly used in summer months. Virginia claims a reduction of 1.2 tons/day from its 1996 projected uncontrolled off-road mobile source emissions. Virginia used guidance provided on August 18, 1993 by EPA's Office of Mobile Sources on the VOC emission benefits for non-road equipment which are in a nonattainment area that uses Federal Phase I RFG. Virginia has correctly used the guidance to quantify the VOC emission reductions for this measure.

EPA has determined that the 1.2 tons/day emission benefit claimed in Virginia's 15% plan is creditable.

Post 1990 Federal Motor Vehicle Control Program (Tier I)

EPA promulgated a national rule establishing "new car" standards for 1994 and newer model year light-duty vehicles and light-duty trucks on June 5, 1991 (56 FR 25724). Since the standards were adopted after the Act was amended in 1990, the resulting emission reductions are creditable toward the 15% reduction goal. Due to the three-year phase-in period for this program and the associated benefits stemming from fleet turnover, the reductions prior to 1996 are somewhat limited. Virginia claimed a reduction of 1.1 tons/day from Tier 1 using the Mobile5.0a model to determine the emission benefits. EPA has reviewed the methodology used by Virginia in calculating of the benefits for this measure and finds that the amount of reduction Virginia claims is creditable, but has not been documented as required by the Act.

In order to address these documentation and modeling issues, as well as the requirements of the NHSDA, EPA is requiring Virginia to recalculate the mobile source credits for enhanced I/M, RFG and Tier 1. The benefits from RFG and Tier 1 must not be separated out on a tons per day basis for each control measure, but rather all mobile source measures must be included in the 1999 target level calculation run. This remodeling assessment will remove any potential for "double-counting" the credit accorded to individual mobile source measures. While EPA will require Virginia to remodel the credits derived from Tier 1 under the remodeling condition cited in the enhanced I/M section of this rule, EPA has no reason to dispute at this time that the 1.1 tons/day emission benefit claimed by Virginia in its 15%

plan from the Tier 1 program is creditable.

Architectural and Industrial Maintenance Coatings (AIM)

In EPA's most recent policy memorandum on AIM credits, "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coatings Rule", dated March 7, 1996, EPA allowed states to claim a 20% reduction of total AIM emissions from the national rule. Virginia claimed a 20% reduction in AIM emissions under its 15% plan, which is a reduction of 4.1 tons/day from their 1996 projected uncontrolled AIM coating emissions. In the March 7, 1996 memorandum, EPA allowed states to continue to claim the 20% reduction of total AIM emissions from the national rule in their 15% plans although the emission reductions were not expected to occur until April 1997. As a result of legal challenges to the proposed national rule, EPA has negotiated a compliance date of no earlier than January 1, 1998. Even though the promulgation date for this rule is now months beyond the end of 1996, it is EPA's intention to still allow the amount of credit specified for the AIM rule in the memorandum in states' 15% plans. EPA believes this is justified in light of the significant delays in proposing the rule. Furthermore, EPA has determined that the Commonwealth has a significantly limited ability to effectuate reductions from this measure through the state adoption process any sooner than EPA's rulemaking schedule. If this final rule does not provide the amount of credit that Virginia claims in its 15% plan, the Commonwealth is responsible for developing measures to make up the shortfall.

Use of emissions reductions from EPA's expected national AIM rule is acceptable towards the 15% plan target. Therefore, the 4.1 tons/day claimed in Virginia's 15% plan are creditable.

Consumer and Commercial Products

Section 183(e) of the Act required EPA to conduct a study of VOC emissions from consumer and commercial products and to compile a regulatory priority list. EPA is then required to regulate those categories that account for 80% of the consumer product emissions in ozone nonattainment areas. Group I of EPA's regulatory schedule lists 24 categories of consumer products to be regulated by national rule, including personal, household, and automotive products. EPA intends to issue a final rule covering these products in the near

future. EPA policy allows states to claim up to a 20% reduction of total consumer product emissions towards the ROP requirement. Virginia claimed a 20% reduction or the equivalent reduction of 1.4 tons/day from their 1996 projected uncontrolled consumer and commercial products emissions in its 15% plan. For the reasons discussed above under the AIM rule regarding delayed implementation of national rules, EPA has determined that the 1.4 tons/day projected reduction in Virginia's 15% plan is creditable. If this final rule does not provide the amount of credit that Virginia claims in its 15% plan, the Commonwealth is responsible for developing measures to make up the shortfall.

Automobile Refinishing

In a November 29, 1994 memorandum, "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule", EPA set forth policy on the creditable reductions to be assumed from the national rule for auto body refinishing. That memorandum allowed for a 37% reduction from current emissions with an assumption of 100% rule effectiveness (presuming the coating application instructions were being followed). Virginia followed EPA's guidance to determine the creditable emissions from this rule and claimed a reduction of 2.1 tons/day from their 1996 projected uncontrolled auto body emissions in its 15% plan. For the reasons discussed above under the AIM rule regarding delayed implementation of national rules, the EPA has determined that the 2.1 tons/day projected reduction in Virginia's 15% plan is creditable. If this final rule does not provide the amount of credit that Virginia claims in its 15% plan, the Commonwealth is responsible for developing measures to make up the shortfall.

Stage I Vapor Recovery

Stage I vapor recovery is a control measure which substantially reduces VOC emissions during the process of filling gasoline storage tanks at gasoline stations. This measure can be applied in newly designated nonattainment areas after the 1990 Amendments to the Act. In the Virginia portion of the Metropolitan Washington D.C. nonattainment area, Stage I is a creditable measure in Loudoun and Stafford counties because Stage I was not required in these counties before 1990. The measure requires "balanced

submerged" filling of gasoline storage tanks at gasoline service stations.

EPA policy allows emission reduction credits achieved in areas implementing Stage I control measures post 1990 to be creditable toward 15%. Virginia estimates that this rule would result in a reduction of 0.5 TPD from Stage I in Stafford and Loudoun Counties. The 0.5 tons/day projected reduction in Virginia's 15% plan is creditable.

Stage II Vapor Recovery

Section 182(b)(3) of the Act requires all owners and operators of gasoline dispensing systems in moderate and above ozone nonattainment areas to install and operate a system for gasoline vapor recovery (known as Stage II) of emissions from the fueling of motor vehicles. Stage II vapor recovery is a control measure which substantially reduces the VOC emissions during the refueling of motor vehicles at gasoline service stations. The Stage II vapor recovery nozzles at gasoline pumps capture the gasoline-rich vapors displaced by liquid fuel during the refueling process.

On November 5, 1992, Virginia submitted a revision to its SIP to require the Stage II controls in all counties of the Virginia portion of the Metropolitan Washington DC ozone nonattainment area. The revisions to Virginia's Stage I and Stage II rule, Rule 120-04-37 "Petroleum Liquid Storage and Transfer Operations", were effective January 1, 1993. EPA approved rule 120-04-37 into the Virginia SIP on June 23, 1994 [59 FR 32353].

Virginia had no pre-1990 Stage II controls in its portion of the Metropolitan Washington DC nonattainment area. Stage II is a creditable measure in counties where these controls were not required before 1990. Virginia estimates that this control measure will result in a reduction of 6.8 TPD from the 1996 projected baseline of 10.1 TPD. The Virginia 15% plan states that Virginia used the Mobile5.0a model in conjunction with gasoline throughput to determine the creditable emission reduction. For this mobile source measure, the Commonwealth submitted limited documentation with regard to the Mobile5.0a runs and the calculations done to determine credit. However, EPA has no reason to dispute Virginia's methodology. Therefore, EPA is proposing to credit the claimed mobile emission reductions for Stage II. This measure and the 6.8 tons/day is creditable toward the 15% requirement of Virginia's 15% plan.

Transportation Control Measures (TCMs)

TCMs are strategies to both reduce vehicle miles traveled (VMT) and decrease the amount of emissions per VMT. TCMs are considered an essential element of control strategies for nonattainment areas. Section 108(f)(1)(A) of the Act classifies TCMs as programs for improved transit, traffic flow, fringe parking facilities for multiple occupancy transit programs, high occupancy or share-ride programs, and support for bicycle and other non-automobile transit. Virginia's measures include TCM projects programmed between fiscal years 1994–1999 in the transportation improvement plan (TIP) under the Congestion Mitigation and Air Quality (CMAQ) Improvement Program and funded for implementation by 1996 in the Metropolitan Washington D.C. region. CMAQ provides funding for transportation related projects and programs designed to contribute to the attainment of air quality standards. TCMs are considered acceptable measures for states to use to achieve 15% reductions. EPA guidance requires that TCMs meet the following conditions to be creditable for the 15% plans: (1) A description of the measure; (2) evidence that the measure was adopted by the jurisdictions with legal authority to execute the measure; (3) evidence that funding is available to implement the measure; (4) evidence that all approvals have been obtained; (5) evidence that a complete schedule to plan, implement and enforce the measure has been adopted by the implementing agencies; and (6) a description of any monitoring program to evaluate the measure's effectiveness.

Virginia provided the required evidence in the plan submittal for 5 TCM projects with a total combined emissions benefit of 0.8 tons/day. Virginia used acceptable methodology for calculating the emissions benefit for the TCMs. The TCMs were all programmed and funded in the Washington Metropolitan Region's Fiscal Year 1994–1999 TIP. EPA has determined that the 0.8 tons/day are creditable.

Seasonal Restrictions on Open Burning

This measure prohibits the open burning of clean burning construction waste, debris waste and demolition waste in the Virginia portion of the Metropolitan Washington D.C. nonattainment area during the peak ozone season months of June, July and August. Virginia submitted revisions to its open burning regulation (120–04–40) for SIP approval on April 26, 1996. The

revisions to rule 120–04–40 were adopted by the Commonwealth on December 19, 1995 and effective April 1, 1996. In a separate notice in today's Federal Register, EPA is approving the revisions to Virginia's rule 120–04–40 for inclusion into the SIP.

Virginia calculated that this rule would result in a reduction of 2.6 tons/day. The calculation of emission reduction benefits considered a rule compliance factor of 80%, which is acceptable. EPA has determined that the 2.6 tons/day projected reduction in Virginia's 15% plan is creditable.

Enhanced Vehicle Inspection and Maintenance (I/M) Program

Most of the 15% SIPs originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most states experienced substantial difficulties with these enhanced I/M programs, only a few states are currently actually testing cars using their original enhanced I/M protocols.

In the case of the Virginia portion of the Metropolitan Washington DC nonattainment area, Virginia has submitted a 15% SIP that would achieve the amount of reductions needed from enhanced I/M by November 1999. On March 27, 1996, Virginia submitted an enhanced I/M SIP revision that calls for enhanced I/M program implementation in counties in the Washington DC nonattainment area and Fauquier County. The Virginia enhanced I/M program is a biennial program with implementation required to begin no later than November 15, 1997. The enhanced I/M submittal consists of its enabling legislation, a description of the enhanced I/M program, proposed regulations, and a good faith estimate that includes the Commonwealth's basis in fact for emission reductions claimed from the enhanced I/M program. On November 6, 1996, EPA proposed conditional, interim approval of Virginia's March 27, 1996 enhanced I/M SIP revision (61 FR 57343).

The proposed conditional interim approval listed numerous minor and major deficiencies and required Virginia to submit a letter to EPA within 30 days committing to correct the deficiencies. Virginia complied with this provision of the proposed notice, and submitted a letter dated December 4, 1996, committing to meet the requirements of full approval outlined in the November 6, 1996 proposed rulemaking. Full approval of Virginia's 15% plan is contingent on Virginia satisfying the conditions of the final conditional

interim approval of its enhanced I/M SIP by a date certain within one year of final conditional interim approval, and receiving final full EPA approval of its enhanced I/M program. If Virginia corrects the deficiencies by that date, and submits a new enhanced I/M SIP revision, EPA will conduct rulemaking to approve that revision. If Virginia fails to fulfill a condition required for approval, and its enhanced I/M program converts to a disapproval, then the conditional interim approval of Virginia's 15% plan SIP would also convert to a disapproval.

In September 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing enhanced I/M programs appropriate for their needs (60 FR 48029). Subsequently, Congress enacted the NHSDA, which provides states with additional flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by states to re-design enhanced I/M programs in accordance with the guidance contained within the NHSDA, secure state legislative approval when necessary, and set up the infrastructure to perform the testing program has precluded states that revise their enhanced I/M programs from obtaining emission reductions from such revised programs by November 15, 1996.

Given the heavy reliance by many states upon enhanced I/M programs to help achieve the 15% VOC emissions reduction required under section 182(b)(1) of the Act, the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA believes that it is no longer possible for many states to achieve the portion of the 15% reductions that are attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15% SIPs would serve no purpose. Consequently, under certain circumstances, EPA will propose to allow states that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs within their 15% plans, even though the emissions reductions from the I/M program will occur after November 15, 1996. The provisions for crediting reductions for enhanced I/M programs is contained in the following two documents: "Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation," note from John Seitz and Margo Oge, dated August 13, 1996, and "Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance", memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996.

Specifically, EPA is proposing approval of 15% SIPs if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15% SIP measures, will achieve the 15% level as soon after November 15, 1996 as practicable. To make this "as soon as practicable" determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. EPA does not believe that measures meaningfully accelerate the 15% date if they provide only an insignificant amount of reductions.

EPA has examined other potentially available SIP measures to determine if they are practicable for Virginia's portion of the Metropolitan Washington, DC area and if they would meaningfully accelerate the date by which the area reaches the 15% level of reductions. The EPA proposes to determine that the SIP does contain the appropriate measures. The TSD for this action contains a discussion of other measures available for 15% plans. Virginia has taken credit for several of these measures (or essentially similar measures), such as reformulated gasoline, controls on small graphic arts facilities, and revised surface cleaning

rules, municipal landfills, etc. in the 15% plan; and taken credit for measures that EPA must promulgate under section 183(e) of the Act such as AIM coatings, consumer and commercial products rule, and autobody refinishing. Provided below is a tabular summary of this analysis. Measures for which Virginia took credit in the 15% plan are identified in the table below as "In 15% Plan" and are not available as possible alternatives to I/M. The other programs that Virginia included in the 15% plan result in only a possible 2.32 tons/day reduction and do not deliver in aggregate, anything close to the reductions achieved by enhanced I/M.

VIRGINIA 15% PLAN—METROPOLITAN WASHINGTON D.C. AREA

Measures considered	Potential VOC Reduction (tons/day)
Area Source Measures:	
AIM Coatings—Federal Rule	In 15% Plan.
Consumer Solvents—Federal Rule	In 15% Plan.
Solvent Cleaning—Substitution/Equipment	In 15% Plan.
Graphic Arts—Web Offset Control	1.07.
Autobody Refinishing—ACT control	In 15% Plan.
Cutback Asphalt—100% Ban	0.23.
TSDFs—Federal Rule early implementation	0.01.
Other Dry Cleaning—SCAQMD 1102	1.01.
Stage I Enhancement—P/V Vents	In 15% Plan.
Stage II—Vapor Recovery	In 15% Plan.
Nonroad Gasoline—Reformulated Gasoline	In 15% Plan.
Point Source Measures:	
Gravure Printing—MACT early implementation	0.01.
Web Offset Lithography—ACT control	In 15% Plan.
Non-mandated On-Road Mobile Measures: Reformulated Gasoline	In 15% Plan.
I/M Reductions: High Enhanced in 15% Plan	In 15% Plan.

EPA has determined that the enhanced I/M program is the only measure that would significantly accelerate the date by which the 15% requirement will be achieved. The EPA proposes to determine that Virginia's 15% plan does contain all measures, including enhanced I/M, that achieves reductions as soon as practicable. EPA proposes to allow enhanced I/M reductions which occur out until November 15, 1999 to count toward the 15% emission reduction level for the 15% plan, since in doing so, the Commonwealth will reach a 15% VOC reduction as soon as practicable.

Virginia claimed a total of 24.6 tons/day credit for this measure. In its May 15, 1995 15% plan submittal, the Commonwealth evaluated the enhanced I/M program using EPA's Mobile5.0a model with assumptions that called for implementation of a centralized, IM240 test with pressure and purge testing, and a program start date of January 1, 1995. Since the time of the May 15, 1995 submittal, Virginia has revised its

enhanced I/M program and on March 27, 1996 submitted the redesigned program to EPA pursuant to the NHSDA. Virginia's revised enhanced I/M program is a biennial, decentralized, test-and-repair program network using Accelerated Simulation Mode (ASM) 50/15 testing equipment scheduled to begin testing by November 1997. Virginia has designed its decentralized network of testing stations to accommodate biennial testing.

EPA has determined that Virginia cannot accelerate the reductions by initially requiring annual testing because:

1. Without additional testing stations, other requirements of the enhanced I/M rule relating to motorist convenience would suffer. Motorist convenience is one important aspect that affects public acceptance and effectiveness of the enhanced I/M program.

2. Additional infrastructure changes (e.g. more testing equipment, enlarging or building new testing stations, and the hiring and training of additional

inspectors) to the enhanced I/M program would not come on-line in time to afford a substantial increase in the amount of reductions realized before November 15, 1999.

3. The cost effectiveness of the program would be adversely affected because the additional costs would not result in a corresponding amount of reductions.

EPA proposes to determine that the enhanced I/M program for Virginia's portion of the Metropolitan Washington, DC nonattainment area achieves reductions from enhanced I/M as soon as practicable.

Because Virginia's revised enhanced I/M program is designed to meet EPA's high-enhanced performance standard and will achieve essentially the same number of testing cycles between start-up and November 1999 as that modeled in the regional 15% plan, EPA believes that Virginia's program will achieve 24.6 tons/day of reductions by 1997. However, EPA has determined that Virginia (with MWCOG) is best able to

perform the definitive determination because Virginia will use the same highway network model that was used to determine the 1990 base year inventory and the 1996 on-road VOC emissions budget used for transportation conformity purposes. (The same highway network model is also used for conformity determinations.) EPA has determined that it would be appropriate to condition approval of the Virginia 15% plan upon Virginia remodeling the I/M benefits to reflect all relevant parameters (start date, network type, test types for exhaust and purge/pressure testing, waiver rates, cut points, etc.) of the revised, enhanced I/M program and show the I/M reductions needed to make the 15% reduction are achieved by no later than November 15, 1999. In performing this remodeling demonstration, the Commonwealth should ensure that Tier 1 and RFG benefits are considered. Benefits must not be separated out on a tons per day basis for each control measure, but rather all mobile source measures should be evaluated in the 1999 "target level", as defined in the December 23, 1996 memorandum, calculation run. EPA requires that such modeling be done in accordance with EPA guidance. EPA's guidance for remodeling I/M for 15% Plans includes: 1) A Note to the Regional Division Directors from John Seitz and Margo Oge dated August 13, 1996 entitled "Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation", and 2) a joint memorandum from Gay McGregor and Sally Shaver dated December 23, 1996 entitled "Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance".

As it relates to Virginia's enhanced I/M program, EPA proposes a conditional interim approval of the 24.6 tons/day reduction from enhanced I/M in the nonattainment area and Frazier County provided Virginia meets the conditions of the November 6, 1996 conditional interim approval of the enhanced I/M program; receives full EPA approval of its enhanced I/M program; and remodels its enhanced I/M program using the appropriate, updated parameters (e.g. appropriate start-date, etc.).

E. Measures Not Evaluated

EPA is not taking action at this time on the following control measures contained in the Virginia 15% plan submitted May 15, 1995:

Rule Effectiveness (RE) Improvements

Rule effectiveness is a means of enhancing rule compliance or implementation by industrial sources, and is expressed as a percentage of total available reductions from a control measure. The default assumption level for RE is 80%. Virginia estimated in this control measure that RE at bulk terminals will be improved from the current level of 80% to 90% and RE at tank truck unloading sources improved from 70% to 91%. The resulting estimated emission benefits are 1.7 tons/day for bulk terminals and 1.3 tons/day for tank truck unloading for a total of 3.0 tons/day. EPA is not taking action on this control strategy in the May 15, 1995 Virginia 15% plan submittal, nor deeming the 3.0 tons/day reduction creditable toward the 15% ROP requirement in this rulemaking.

Graphic Arts

This measure regulates emissions from formerly uncontrolled small lithographic printing operations, such as heatset web, non-heatset web, non-heatset sheet-fed, and newspaper non-heatset web operations. VOCs are emitted from the inks, fountain solutions and solvents used to clean the printing presses. This measure is modeled on EPA's draft documents "Offset Lithographic Printing Control Techniques Guideline" and "Alternative Control Techniques Document: Offset Lithographic Printing" announced in the Federal Register, November 8, 1993. Virginia claims 1.4 tons/day in emission benefits from the 1996 projected year inventory of lithographic printing sources. EPA is not taking action on this control strategy in the May 15, 1995 Virginia 15% plan submittal, nor deeming the 1.4 tons/day reduction creditable toward the 15% ROP requirement in this rulemaking.

Municipal Landfill Emissions

This control measure is a state control program regulating VOC emissions from municipal landfills, utilizing landfill gas capture and destruction systems. The 1996 projection year inventory for this source category is 1.5 tons/day. Virginia

estimated that this rule would result in a reduction of 0.4 tons/day. EPA is not taking action on this control strategy in the May 15, 1995 Virginia 15% plan submittal, nor deeming the 0.4 tons/day reduction creditable toward the 15% ROP requirement in this rulemaking.

Surface Cleaning Operations

This measure amends the Virginia regulation for surface cleaning (also called cold cleaning and degreasing) devices and operations for area sources and requires more stringent emission control requirements and enlarges the field of applicable sources. Virginia's 1996 projection year inventory in this source category is 3.9 tons/day. Virginia estimates that this measure would result in a 10% reduction of emissions and with 80% rule compliance resulting in 1.5 tons/day reduction credits. EPA is not taking action on this control strategy in the May 15, 1995 Virginia 15% plan submittal, nor deeming the 1.5 tons/day reduction creditable toward the 15% ROP requirement in this rulemaking.

Non-CTG RACT to 50 TPY and 25 TPY

Section 182(b)(2)(B) of the Act requires that serious ozone nonattainment areas adopt rules to require RACT for all VOC sources in the nonattainment area not already subject to RACT by any other SIP regulation developed pursuant to a Control Technique Guideline (CTG) that has potential emissions of greater than or equal to 50 TPY. On April 22, 1996 Virginia submitted a SIP revision to its Non-CTG VOC RACT rule lowering the major source definition to 25 tpy in the Virginia portion of the Metropolitan Washington DC nonattainment area. EPA is approving the revisions to this rule, 120-04-0407 "Standard for VOC Compounds", in a separate rulemaking notice also published in today's Federal Register. The regulation currently requires that sources with the potential to emit 50 tpy or more achieve compliance with RACT by May 31, 1995; and has been revised to require sources with the potential to emit 25 tpy or greater, but less than 50 tpy to comply with RACT by May 31, 1996.

Virginia takes credit in the 15% plan for reductions at five sources subject to Non-CTG RACT to 50 tpy and three individual sources subject to Non-CTG RACT to 25 tpy (see table below).

SOURCE SPECIFIC RACT WITH REDUCTIONS CLAIMED IN THE 15% PLAN

Source name	Current control emissions(tons/day)	Reduction potential (%)	Reductions (tons/day)
Non-CTG RACT to 50 TPY:			
Lorton Reform	0.19	25	0.05
Tuscarora Plastics	0.31	25	0.08
Insulated Building Systems	0.20	25	0.05
Treasure Chest Ad	0.24	65	0.16
Cellofoam	0.23	25	0.06
Non-CTG RACT to 25 tpy:			
Times Journal	0.06	65	0.04
Stephanson	0.13	65	0.08
IBM	0.12	25	0.03
Total Reductions Claimed			0.55

Virginia's SIP approved generic RACT rule does not apply individual process emission limits on either source categories or individual sources. Emissions limits are an integral part of a RACT determination and necessary for enforceability. Emission limits on sources must be established in individual RACT determinations on a source by source basis. Each RACT determination must be SIP approved to be federally enforceable and creditable toward 15%. EPA is not taking action on this control strategy in the May 15, 1995 Virginia 15% plan submittal, nor deeming the combined 0.55 tons/day reduction associated with the RACT determinations creditable toward the 15% ROP requirement in this rulemaking.

Pesticide Reformulation

This measure requires the use of low-VOC content pesticides for consumer, commercial and/or agricultural use. Virginia claims that this measure results in a reduction of 0.4 tons/day by applying a 40% overall reduction to the 1996 base year projection emissions for pesticide application. EPA is not taking action on this control strategy in the May 15, 1995 Virginia 15% plan submittal, nor deeming the 0.4 tons/day reduction creditable toward the 15% ROP requirement in this rulemaking.

F. Reasonable Further Progress

The table below summarizes both the proposed creditable measures and those measures which EPA is not taking action on in this rulemaking from Virginia's 15% plan for the Metropolitan Washington DC area.

Summary of Creditable Emission Reductions in the Commonwealth of Virginia's 15% Plan for the Washington DC Serious Ozone Nonattainment Area (Tons/day)

CREDITABLE REDUCTIONS	
FMVCP Tier I	1.1
Reformulated Gasoline:	
On-Road	9.3
Off-Road	1.2
Auto Refinishing	2.1
AIM	4.1
Consumer/Commercial Products	1.4
TCMs	0.8
Seasonal Open Burning Restrictions ..	2.6
Stage II Vapor Recovery Nozzles	6.8
Stage I Enhancement	0.5
Enhanced Inspection & Maintenance ¹ ..	23.7
Fauquier County	0.9
Total Creditable	54.5

MEASURES EPA IS NOT TAKING ACTION ON IN THIS RULEMAKING	
Degreasing/Surface Cleaning enhancement	1.5
Graphic Arts—Offset lithography	1.4
Rule Effectiveness Improvements	3.0
Non-CTG RACT to 50 tpy	0.4
Non-CTG RACT to 25 tpy	0.2
Municipal Landfills	0.4
Pesticide Reformulation	0.4
Total No Action	7.3

¹ To conform with EPA's proposal of conditional interim approval of Virginia's enhanced I/M plan, EPA is proposing conditional interim approval of the reduction credits from Virginia's enhanced I/M program claimed in Virginia's 15% plan.

EPA has evaluated the May 15, 1995 submittal for consistency with the Act, applicable EPA regulations, and EPA policy. On its face, Virginia's 15% plan achieves the required 15% VOC emission reduction to meet Virginia's portion of the regional multi-state plan to achieve the 15% ROP requirements of section 182(b)(1) of the Act. However, there are measures included in the

Virginia 15% plan, which may be creditable towards the Act requirement, but which are insufficiently documented for EPA to take action on at this time. While the amount of creditable reductions for certain control measures has not been adequately documented to qualify for Clean Air Act approval, EPA has determined that the submittal for Virginia contains enough of the required structure to warrant conditional interim approval. Furthermore, the May 15, 1995 submittal strengthens the Virginia SIP.

Based on EPA's preliminary review of the draft revised regional 15% plan for the Metropolitan Washington DC nonattainment area, sent to EPA for comment by the Commonwealth on January 30, 1997, EPA believes that the amount of VOC reduction that Virginia needs to satisfy the 15% ROP requirement in the Metropolitan Washington D.C. area may be lower than the 54.5 tons/day accounted for with creditable measures in the May 15, 1995 submittal. The January 30, 1997 draft revised plan includes revised information for the 1990 base year inventory and actual growth between 1990 and 1996, as opposed to projected growth. The effect of these revisions may lower the amount of creditable emission reductions Virginia needs to achieve its share of the 15% ROP requirement.

III. Proposed Action

In light of the above deficiencies and to conform with EPA's action proposing conditional interim approval of Virginia's enhanced I/M program, EPA is proposing conditional interim approval of this SIP revision under section 110(k)(4) of the Act.

EPA is proposing conditional interim approval of the Virginia 15% plan for the Virginia portion of the Metropolitan

Washington D.C. nonattainment area if Virginia commits, in writing, within 30 days of EPA's proposal to correct the deficiencies identified in this rulemaking. These conditions are described below. If the Commonwealth does not make the required written commitment to EPA within 30 days, EPA is proposing in the alternative to disapprove the 15% plan SIP revision. If the Commonwealth does make a timely commitment, but the conditions are not met by the specified date within one year, EPA is proposing that the rulemaking will convert to a final disapproval. EPA would notify Virginia by letter that the conditions have not been met and that the conditional approval of the 15% plan has converted to a disapproval. Each of the conditions must be fulfilled by Virginia and submitted to EPA as an amendment to the SIP. If Virginia corrects the deficiencies within one year of conditional interim approval, and submits a revised 15% plan as a SIP revision, EPA will conduct rulemaking to fully approve the revision. In order to make this 15% plan approvable, Virginia must fulfill the following conditions by no later than 12 months after EPA's final conditional interim approval:

1. Virginia's 15% plan must be revised to account for growth in point sources.
2. Virginia must meet the conditions listed in the November 6, 1996 conditional interim I/M rulemaking notice, including its commitment to remodel the I/M reductions using the following two EPA guidance memos: "Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation," note from John Seitz and Margo Oge, dated August 13, 1996, and "Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance", memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996.
3. Virginia must remodel to determine affirmatively the creditable reductions from RFG, and Tier 1 in accordance with EPA guidance.

4. Virginia must submit a SIP revision amending the 15% plan with a demonstration using appropriate documentation methodologies and credit calculations that the 54.5 tons/day reduction, supported through creditable emission reduction measures in the submittal, satisfies Virginia's 15% ROP requirement for the Metropolitan Washington DC nonattainment area.

After making all the necessary corrections to establish the creditability of chosen control measures, Virginia

must demonstrate that the 15% emission reduction is obtained in the Washington DC nonattainment area as required by section 182(b)(1) of the Act and in accordance with EPA's policies and guidance.

EPA and the Virginia Department of Environmental Quality have worked closely since the May 1995 submittal to resolve all the issues necessary to fully approve the 15% plan. The Commonwealth is aware of the above deficiencies and has addressed many of the above-named deficiencies in the draft revised regional plan. The Commonwealth has stated that it intends to submit additional information to address all deficiencies within the 15% plan. Therefore, while some deficiencies currently remain in the 15% plan, EPA believes that these issues will be resolved no later than 12 months after EPA's final conditional interim approval. EPA will consider all information submitted as a supplement or amendment to the May 15, 1995 submittal prior to any final rulemaking action.

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

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

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.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not

create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional interim approval is converted to a disapproval under section 110(k), based on the Commonwealth's failure to meet the commitment, it will not affect any existing Commonwealth requirements applicable to small entities. Federal disapproval of the Commonwealth submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action would not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

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

EPA has determined that the approval action proposed 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.

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended 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 section 804(2) of the APA as amended.

The Regional Administrator's decision to approve or disapprove the SIP revision pertaining to the Virginia 15% plan for the Washington, DC nonattainment area will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Dated: February 25, 1997.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 97-6082 Filed 3-11-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[VA068-5018b, VA066-5018b; FRL-5688-9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia for the purpose of establishing a maintenance plan and a motor vehicle emissions budget for the Hampton Roads ozone nonattainment area. EPA is also proposing to approve the request submitted by the Commonwealth of Virginia to redesignate the Hampton Roads marginal ozone nonattainment area to attainment of the National Ambient Air Quality Standard (NAAQS)

for ozone. In the final rules section of this Federal Register, EPA is approving the Commonwealth's SIP revisions and redesignation request as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the Technical Support Document (TSD) that has been prepared by EPA on these rulemaking actions. The TSD is available for public inspection at the EPA Regional office listed in the ADDRESSES section of this document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 11, 1997.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located

in the Rules and Regulations section of this Federal Register.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 5, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 97-6077 Filed 3-11-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 80

[FRL-5708-9]

Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing.

SUMMARY: This document announces the time and place for a public hearing regarding EPA's proposed rule to set an implementation date for the Phoenix ozone nonattainment area to be a covered area for all purposes in the federal reformulated gasoline (RFG) program. By letter dated January 17, 1997, the Governor of the State of Arizona applied to EPA to include the Phoenix moderate ozone nonattainment area in the federal reformulated gasoline program (RFG). Pursuant to the Governor's letter and the provisions of section 211(k)(6) of the Clean Air Act, on February 18, 1997 EPA published in the Federal Register a Notice of Proposed Rulemaking (NPRM) (62 FR 7197). In the NPRM, EPA proposed to apply the prohibitions of subsection 211(k)(5) to the Phoenix, Arizona nonattainment area.

DATES: EPA will conduct a public hearing on the proposed rule from 8:00 a.m. until noon on March 18, 1997, in Phoenix, Arizona. Written comments on this proposed rule will be accepted for 30 days following the hearing, until April 17, 1997.

ADDRESSES: The public hearing will be held from 8:00 a.m. until noon at the Arizona Department of Environmental Quality Public Hearing Room, 3033 North Central Avenue, Phoenix, Arizona 85012. If additional time is needed to hear testimony, the hearing will continue from 1:00 until 5:00 p.m. in