

provided no information that would support a reevaluation of the agency's exposure estimate or the clinical studies that were conducted. Therefore, this submission provides no basis for FDA to reconsider its decision to issue the final rule on neotame. Moreover, this submission provides no basis for granting a hearing because a hearing request must include specifically identified reliable evidence that can lead to resolution of a factual issue in dispute. A hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions and contentions (§ 12.24(b)(2)). Therefore, FDA is denying the hearing requested by this submission.

## V. Summary and Conclusions

Section 409 of the act requires that a food additive be shown to be safe prior to marketing. Under 21 CFR 170.3(i), a food additive is "safe" if there is a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use. In the final rule approving neotame, FDA concluded that the data presented by the petitioner to establish safety of the additive demonstrate that neotame is safe for its intended use as a general-purpose sweetener and flavor enhancer in foods. The final rule did not authorize the use of neotame in meat and poultry.

The petitioner has the burden to demonstrate the safety of the additive in order to gain FDA approval. Once FDA makes a finding of safety, the burden shifts to an objector, who must come forward with evidence that calls into question FDA's conclusion (*American Cyanamid Co. v. FDA*, 606 F.2d 1307, 1314-1315 (DC Cir. 1979)).

None of the three objections received contained evidence to support a genuine and substantial issue of fact. Nor has any objector established that the agency overlooked significant information in reaching its conclusion. Therefore, the agency has determined that the objections that requested a hearing do not raise any substantial issue of fact that would justify an evidentiary hearing (§ 12.24(b)). Accordingly, FDA is not making any changes in response to the objections and is denying the requests for a hearing.

Dated: April 19, 2005.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 05-8352 Filed 4-26-05; 8:45 am]

BILLING CODE 4160-01-S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2005-VA-0001; FRL-7904-5]

### Approval and Promulgation of Air Quality Implementation Plans; Virginia; NO<sub>x</sub> RACT Determinations for Four Individual Sources

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

**ACTION:** Direct final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Virginia's State Implementation Plan (SIP). The revisions were submitted by the Virginia Department of Environmental Quality (VADEQ) to establish and require reasonably available control technology (RACT) for four major sources of nitrogen oxides (NO<sub>x</sub>). These sources are located in the Western Virginia Emissions Control Area. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on June 27, 2005, without further notice, unless EPA receives adverse written comment by May 27, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-VA-0001 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: [campbell.david@epa.gov](mailto:campbell.david@epa.gov).

D. Mail: R03-OAR-2005-VA-0001, David Campbell, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to RME ID No. R03-OAR-2005-VA-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://www.regulations.gov) Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., 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 in RME or in hard copy 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:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Prior to the establishment of the 8-hour ozone nonattainment areas, EPA developed a program to allow these potential nonattainment areas to voluntarily adopt local emission control programs to avoid air quality violations and mandated nonattainment area controls. Areas with air quality meeting the 1-hour ozone standard were eligible to participate. In order to participate, state and local governments and EPA developed and signed a memorandum of agreement that describes the local control measures the state or local community intends to adopt and implement to reduce ozone emissions in advance of air quality violations. In this agreement, also known as an Early Action Compact (EAC), the state or local communities agree to prepare emission inventories and conduct air quality modeling and monitoring to support its selection of emission controls. Areas that participate in the EAC program have the flexibility to institute their own approach in maintaining clean air and protecting public health. For a period of time (generally not to exceed 5 years), participating areas can avoid a nonattainment designation.

Several localities in the Winchester and Roanoke areas have elected to participate in the EAC program. The areas that signed an EAC are the City of Winchester and Frederick County, which comprise the Northern Shenandoah Valley EAC; and the cities of Roanoke and Salem, and the counties of Roanoke and Botetourt, which comprise the Roanoke EAC. Virginia's strategy for enabling these localities to participate in the EAC program is to

have them be subject to volatile organic compound (VOC) and NO<sub>x</sub> control measures from which they had, until this time, been exempt. In order to enable the affected localities to implement these VOC and NO<sub>x</sub> controls, the Virginia Regulations for the Control of Abatement of Air Pollution were revised to include these affected localities. In a separate rulemaking action, the list of VOC and NO<sub>x</sub> emission control areas (9 VAC 5-20-206) was expanded to include the EAC areas as the Western Virginia Emissions Control Area. With this expansion, the VOC and NO<sub>x</sub> control rules of Chapter 40 became applicable in these areas.

In order to implement the NO<sub>x</sub> control measures, VADEQ adopted a regulation (Rule 4-4) which provides that VADEQ must, on case-by-case basis, determine whether there is RACT to reduce NO<sub>x</sub> emissions from major sources for which EPA has not issued control techniques guideline (CTG). EPA has approved the regulation (Rule 4-4) in a separate rulemaking action. A major source in the Western Virginia Emissions Control Area subject to Rule 4-4, emits or has the potential to emit 100 tons per year of NO<sub>x</sub>. CTGs are documents issued to define RACT for a particular source category. EPA has defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

The following sources in the Western Virginia Emissions Control Area have been identified as sources subject to the RACT requirements: (1) Roanoke

Electric Steel Corporation Steel Mini-Mill located in the City of Roanoke, (2) Roanoke Cement Company Portland Manufacturing Plant located in Troutville, County of Botetourt; (3) Norfolk Southern Railway Company—East End Shops located in the City of Roanoke; and (4) Global Stone Chemstone Corporation located in Frederick County.

**II. Summary of the SIP Revisions**

On January 31, February 3, 7, and 14, 2005, VADEQ submitted revisions to the Virginia SIP which establish and impose RACT for four sources of NO<sub>x</sub>. The Commonwealth's submittals consist of permits to operate which impose NO<sub>x</sub> RACT requirements for each source.

Copies of the actual permits to operate imposing RACT and VADEQ's evaluation memoranda are included in the electronic and hard copy docket for this final rule. As previously stated, all documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Publicly available docket materials are available either electronically in RME or in hard copy 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.

The table below identifies the sources and the individual permits to operate which are the subject of this rulemaking.

WESTERN VIRGINIA EMISSIONS CONTROL AREA—NO<sub>x</sub> RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	Location	Permit/order or registration number	Source type	"Major source" pollutant
Roanoke Electric Steel Corporation .....	City of Roanoke .....	Registration No. 20131	Steel mill .....	NO <sub>x</sub>
Roanoke Cement Company .....	Troutville, County of Botetourt.	Registration No. 20232	Cement kiln .....	NO <sub>x</sub>
Norfolk Southern Railway Company—East End Shops.	City of Roanoke .....	Registration No. 20468	Rail car and locomotive maintenance.	NO <sub>x</sub>
Global Stone Chemstone Corporation—Winchester Facility.	Clear Brook, Frederick County.	Registration No. 80504	Lime manufacturing .....	NO <sub>x</sub>

**III. EPA's Evaluation of the SIP Revisions**

EPA is approving these RACT SIP submittals because VADEQ established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT. The Commonwealth has also imposed record-keeping, monitoring and testing requirements on these

sources sufficient to determine compliance with the applicable RACT determinations.

**IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia**

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental

assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver

for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1-1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1-1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. \* \* \*" The opinion concludes that "[r]egarding § 10.1-1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1-1199, provides that "[t]o the extent consistent with requirements imposed by Federal law," any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent

with Federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

#### V. Final Action

EPA is approving the revisions to the Virginia SIP submitted by VADEQ to establish and require NO<sub>x</sub> RACT for four major sources. These SIP revisions are necessary to implement the Early Action Compact Plan for the Roanoke and the Northern Shenandoah Valley Ozone Early Action Compact Plan. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on June 27, 2005, without further notice unless EPA receives adverse comment by May 27, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### VI. Statutory and Executive Order Reviews

##### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 rule also does not have tribal implications because it will 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). This action also does not have federalism implications because it does not 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). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

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. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency

management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for four named sources.

**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 June 27, 2005. Filing a petition for reconsideration by the Administrator of this final rule approving source-specific RACT requirements for four sources in the Commonwealth of Virginia does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

Dated: April 19, 2005.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart VV—Virginia**

■ 2. In § 52.2420, the table in paragraph (d) is amended by adding entries for Roanoke Electric Steel Corp., Roanoke Cement Company, Norfolk Southern Railway Company—East End Shops and Global Stone Chemstone Corporation at the end of the table to read as follows:

**§ 52.2420 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*

**EPA-APPROVED VIRGINIA SOURCE-SPECIFIC REQUIREMENTS**

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Roanoke Electric Steel Corp. ....	Registration No. 20131 .....	December 22, 2004	April 27, 2005 [Insert page number where the document begins]	52.2420(d)(7)
Roanoke Cement Company .....	Registration No. 20131 .....	December 22, 2004	April 27, 2005 [Insert page number where the document begins]	52.2420(d)(7)
Norfolk Southern Railway Company—East End Shops ...	Registration No. 20468 .....	December 22, 2004	April 27, 2005 [Insert page number where the document begins]	52.2420(d)(7)
Global Stone Chemstone Corporation .....	Registration No. 80504 .....	February 9, 2005	April 27, 2005 [Insert page number where the document begins]	52.2420(d)(7)

[FR Doc. 05-8441 Filed 4-26-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2005-VA-0002; FRL-7904-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision Establishing the Western Virginia VOC and NO<sub>x</sub> Emissions Control Area, and Providing the Enabling Authority for NO<sub>x</sub> RACT Determinations in the Area

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

**ACTION:** Direct final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Commonwealth of Virginia State Implementation Plan (SIP) establishing a new volatile organic compound (VOC) and nitrogen oxide (NO<sub>x</sub>) emissions control area. This new area, entitled, the Western Virginia Emissions Control Area, consists of the City of Winchester and Frederick County, Roanoke County, Botetourt County, Roanoke City, and Salem City. EPA is also approving a revision to provide the enabling authority to implement NO<sub>x</sub> Reasonably Available Control Technology (RACT) in the affected areas. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on June 27, 2005 without further notice, unless EPA receives adverse written comment by May 27, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-VA-0002 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: [campbell.dave@epa.gov](mailto:campbell.dave@epa.gov).

D. Mail: R03-OAR-2005-VA-0002, David Campbell, Chief, Air Quality

Planning Branch, 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to RME ID No. R03-OAR-2005-VA-0002 EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://www.regulations.gov) websites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, 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 in RME or in hard copy 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:** Ellen Wentworth, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Prior to the final establishment of the 8-hour ozone nonattainment areas, EPA developed a program to allow potential nonattainment areas to voluntarily adopt local emission control programs to avoid air quality violations and mandated nonattainment area controls. Areas with air quality meeting the one-hour ozone standard were eligible to participate. In order to participate, state and local governments and EPA had to develop and sign an Early Action Compact (EAC) agreement with EPA. This agreement outlined the implementation procedures for the EAC program. As part of the EAC process, state and local communities are required to adopt and implement measures to reduce ozone precursor pollutants. In addition, the EAC program requires the preparation of an attainment demonstration.

Several localities in the Winchester and Roanoke areas of Virginia were eligible to participate in the EAC program. The areas that signed an EAC are the City of Winchester and Frederick County, which comprise the Northern Shenandoah Valley EAC, and the cities of Roanoke and Salem, and the counties of Roanoke and Botetourt, which comprise the Roanoke EAC.

In order to support this effort, the Commonwealth has elected to expand its pre-existing list of emission control areas to include the EAC participating localities and to expand its NO<sub>x</sub> RACT regulation to the new emission control area.

##### II. Summary of SIP Revision

On December 22, 2004, and supplemented on February 24, 2005, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision amends the Virginia Code at 9 VAC 5-20-206 to expand the VOC and NO<sub>x</sub> emission control areas to include the Western Virginia Emissions Control Area. This area includes the counties of Botetourt, Frederick, and Roanoke, and the cities of Roanoke, Salem, and Winchester. The revision also authorizes the implementation of NO<sub>x</sub> RACT in the Western Virginia Emissions Control Area.

This SIP revision also includes several amendments to various