

August 17, 1998, and February 14, 2000, and the transportation control measures in Appendix J of the February 9, 2000, submittal and only section 9.1.1.2 of the March 31, 2000 SIP supplement due to the following deficiencies: (1) Lack of contingency measures; (2) lack of an analysis showing that all RACM have been adopted for implementation in the Washington area; and, (3) lack of revised MOBILE6-based motor vehicle emissions budgets, including revisions to the attainment modeling and/or weight of evidence demonstration, as necessary, to show that the SIP continues to demonstrate attainment by November 15, 2005. The EPA is proposing disapproval with a protective finding with respect to the 2005 attainment motor vehicle emissions budgets.

#### *E. The Commonwealth of Virginia—Rate-of-Progress Plan*

EPA is proposing conditional approval of the Commonwealth of Virginia's 1996–1999 ROP plan SIP revision for the Washington area which was submitted on December 19, 1997, and supplemented on May 25, 1999, and the transportation control measures in Appendix H of the May 25, 1999, submittal because Virginia has committed to submit to the EPA by April 17, 2004, a contingency plan containing those adopted measures that qualify as contingency measures to be implemented if EPA notifies the states that the Washington area did not achieve the required 9 percent rate of progress reductions by November 15, 1999.

With respect to the 1996–1999 ROP plan, in the event that we cannot issue a final conditional approval, we propose in the alternative to disapprove the Commonwealth of Virginia's 1996–1999 ROP plan SIP because it lacks contingency measures. The EPA is proposing disapproval in the alternative with a protective finding with respect to the 1999 ROP motor vehicle emissions budgets.

#### *F. The Commonwealth of Virginia—Attainment Demonstration*

EPA is proposing conditional approval of the revisions to the State Implementation Plan submitted by the Commonwealth of Virginia on April 29, 1998, August 18, 1998, and February 9, 2000, and the transportation control measures in Appendix J of the February 9, 2000, submittal, and only section 9.1.1.2 of the March 31, 2000, SIP supplement dealing with a commitment to revise the 2005 attainment motor vehicle emissions budgets within one-year of the EPA's release of the

MOBILE6 model. EPA is proposing conditional approval because Virginia has committed to:

(1) Submit to the EPA by April 17, 2004, a contingency plan containing those adopted measures that qualify as contingency measures due to the failure of the Washington area to attain the one-hour ozone standard for serious areas by November 15, 1999;

(2) Revise and submit to the EPA by April 17, 2004, an updated attainment demonstration SIP that reflects revised MOBILE6-based motor vehicle emissions budgets, including revisions to the attainment modeling and/or weight of evidence demonstration, as necessary, to show that the SIP continues to demonstrate attainment by November 15, 2005;

(3) Submit to the EPA by April 17, 2004, adopted contingency measures to be implemented if the Washington area does not attain the one-hour ozone NAAQS by November 15, 2005; and

(4) Submit to the EPA by April 17, 2004, a revised RACM analysis and any revisions to the attainment demonstration SIP as necessitated by such analysis should there be any.

In the alternative, the EPA is proposing to disapprove the State Implementation Plan submitted by the Commonwealth of Virginia on April 29, 1998, August 18, 1998, and February 9, 2000, and the transportation control measures in Appendix J of the February 9, 2000, submittal, and only section 9.1.1.2 of the March 31, 2000, SIP supplement due to the following deficiencies: (1) Lack of contingency measures; (2) lack of an analysis showing that all RACM have been adopted for implementation in the Washington area; and, (3) lack of revised MOBILE6-based motor vehicle emissions budgets, including revisions to the attainment modeling and/or weight of evidence demonstration, as necessary, to show that the SIP continues to demonstrate attainment by November 15, 2005. The EPA is proposing disapproval with a protective finding with respect to the 2005 attainment motor vehicle emissions budgets.

#### *G. Applicability of Revised Motor Vehicle Emissions Budgets*

In this notice, we are proposing to clarify what occurs if we issue a conditional approval of any of the February 2000 plans based on a State commitment to revise the 2005 motor vehicle emissions budgets for the Washington area in the future. If this occurs, the conditionally approved 2005 motor vehicle emissions budgets will apply for conformity purposes only

until the revised motor vehicle emissions budgets have been submitted and we have found the submitted motor vehicle emissions budgets to be adequate for conformity purposes.

The EPA is soliciting public comments on the issues discussed in this document and any other relevant issues regarding the attainment demonstration for the Washington area. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this document. A more detailed description of the state submittal and the EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available upon request from the EPA Regional Office listed in the **ADDRESSES** section of this document.

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, 1997, 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