

(i.e., chickens and turkeys), the Bureau of Veterinary Medicine concludes that approval of this supplement poses no significant increased human risk from exposure to residues of novobiocin. Therefore, in accordance with the Bureau's supplemental approval policy (42 FR 64367, December 23, 1977), approval of this supplemental NADA does not require reevaluation of the human safety data supporting the parent application.

The current regulations provide for waiver of the provisions of section 512(m) of the act for use of novobiocin in chicken, turkey, and mink feeds. Use of this drug in duck feed does not meet the criteria for this waiver. The regulations are amended to specify that the waiver is limited to novobiocin-containing chicken, turkey, and mink feeds.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application may be seen in the office of the Hearing Clerk (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant effect on the human environment. Therefore, an environmental impact statement will not be prepared. The Bureau finding of no significant impact and the evidence supporting this finding is contained in an environmental impact analysis report (see 21 CFR 25.1(j)) which may be seen in the office of the Hearing Clerk (HFA-305), see address above.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 556 and 558 are amended as follows:

§ 556.460 [Amended]

1. In Part 556, § 556.460 *Novobiocin* is amended by revising the phrase "chickens and turkeys" to read "chickens, turkeys, and ducks".

2. In Part 558, § 558.415 is amended by revising paragraph (d) and by adding new paragraph (f)(4) to read as follows:

§ 558.415 *Novobiocin*.

(d) *Special considerations*. Finished chicken, turkey, and mink feeds conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the act.

(f) *Conditions of use*. * * *

(4) *Ducks*—(i) *Amount*. Novobiocin, 350 grams per ton.

(ii) *Indications for use*. Control of infectious serositis and fowl cholera in ducks caused by *Pasteurella anatis* and *P. multocida*, susceptible to novobiocin.

(iii) *Limitations*. Administer, as sole ration, for 5 to 7 days, continue medication for 14 days if necessary, repeat if reinfection occurs; discontinue use at least 3 days before slaughter; not for use in laying ducks.

Effective date. June 24, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 18, 1980.

Terence Harvey,

Acting Director for Bureau of Veterinary Medicine.

[FR Doc. 80-18932 Filed 6-23-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed for V.P.O., Inc., providing for safe and effective use of 4- and 8-grams-per-pound tylosin premixes for making complete swine feeds.

EFFECTIVE DATE: June 24, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: V.P.O., Inc., 4444 S. 76th St., Omaha, NE 68127, is the sponsor of supplemental NADA 98-431 providing for use of premixes containing 4 and 8 grams of tylosin (as tylosin phosphate) per pound, in addition to an existing approval for use of a 10-grams-per-pound premix, for making complete swine feeds used to increase rate of weight gain and to improve feed efficiency.

Approval of this application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (see the Federal Register of December 23, 1977 (42 FR 64367)), approval of this supplemental NADA does not require reevaluation of the safety and effectiveness in NADA 12-491 or in NADA 98-431.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 522) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625, by revising paragraph (b)(25) to read as follows:

§ 558.625 *Tylosin*.

(b) * * *

(25) To 043743: 4, 8, and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

Effective date. This amendment is effective June 24, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: June 18, 1980.

Robert Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-18931 Filed 6-23-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 1308

Classification of Dextropropoxyphene as a Narcotic Drug in Schedule IV of the Controlled Substances Act

Cross Reference: For a document issuing a final rule by the Drug Enforcement Administration regarding Classification of Dextropropoxyphene as a Narcotic Drug in Schedule IV of the Controlled Substances Act, See FR Doc 18841 appearing on page 42264 of this issue of the Federal Register.

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Classification of Dextropropoxyphene as a Narcotic Drug in Schedule IV of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.
ACTION: Final rule.

SUMMARY: This final rule, in addition to the Schedule IV controls which are currently imposed upon dextropropoxyphene, involves the following: (1) The drug's control by this Order as a Schedule IV narcotic drug, (2) restriction on using the drug in Narcotic Treatment Programs, (3) recordkeeping by practitioners who dispense other than by prescribing or administering the drug, (4) requirements for export permits to export the drug from the United States, and (5) the prohibition of importation of the drug into the United States.

EFFECTIVE DATE: The effective date for the requirements imposed by this Order is July 24, 1980, unless otherwise set forth below in the supplementary information section.

FOR FURTHER INFORMATION CONTACT: William M. Lenck, Chief Counsel, Drug Enforcement Administration, telephone number (202) 633-1276.

SUPPLEMENTARY INFORMATION: On January 21, 1980, the Administrator of the Drug Enforcement Administration published a notice of proposed rulemaking to amend § 1308.14 of Title 21 of the Code of Federal Regulations (CFR) by classifying dextropropoxyphene as a narcotic. This classification matter originated with the Assistant Secretary of Health, Department of Health, Education and Welfare and was contained in his scientific and medical evaluation and

recommendations concerning dextropropoxyphene which he provided to the Administrator of the Drug Enforcement Administration in a letter dated September 7, 1979, along with his recommendation that then-pending petitions to control dextropropoxyphene in Schedule II of the Controlled Substances Act be denied. The Assistant Secretary's proposal set forth an analysis of dextropropoxyphene as a narcotic; and to supplement that analysis, Dr. J. Richard Crout, Director, Bureau of Drugs, Food and Drug Administration, provided additional evidence in support of the position that dextropropoxyphene is an opiate, and hence, a narcotic drug, as defined in Sections 102 (17) and (16) of the Controlled Substances Act [21 U.S.C. 802 (17), (16)]. The notice published on January 21, 1980 (45 FR 3923) provided an opportunity for all interested persons to submit comments on the matter no later than February 20, 1980.

One letter commenting on the proposed rule was received by the Drug Enforcement Administration from Eli Lilly and Company. Lilly did not oppose the classification of dextropropoxyphene as a narcotic within the meaning of the Controlled Substances Act.

Lilly included in its comment its observation concerning the dependence producing characteristics of dextropropoxyphene (which it markets as Darvon) as compared to other narcotics such as morphine and codeine, which are in Schedule II. With its observations, Lilly also provided DEA with a copy of a submission it earlier presented to the FDA Drug Abuse Advisory Committee in April, 1979, in which Lilly's observations and dependence data compares dextropropoxyphene with morphine and codeine, and in which they claim that dextropropoxyphene is quantitatively, but not qualitatively, less able to produce or sustain dependence than morphine and codeine.

Although no other comments on the notice of proposed rulemaking concerning dextropropoxyphene were received, it should be noted that the control of dextropropoxyphene as a narcotic has gained international attention. On April 17, 1980, the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs (CND) has decided to include dextropropoxyphene in Schedule II of the Single Convention on Narcotic Drugs (NAR/CL.3/1980, G/SO 421/11(1)). The United States, as a party to that Convention, is required to impose

"periodical permits" (quotas) on the domestic manufacture of dextropropoxyphene. Quotas are a statutory and regulatory control measure imposed by the federal Controlled Substances Act and DEA regulations only upon controlled substances in Schedule I or II.

The Administrator of the Drug Enforcement Administration is issuing this final order presently, mindful that this action might well be succeeded by DEA imposing further domestic controls upon dextropropoxyphene to the extent compelled by the United States international obligations as a result of dextropropoxyphene being included in Schedule II of the Single Convention on Narcotic Drugs.

Control as Narcotic Drug

Accordingly, based upon the Assistant Secretary for Health's medical and scientific evaluation of dextropropoxyphene as a narcotic, the Administrator finds that dextropropoxyphene is an opiate and therefore a narcotic drug as defined in Sections 102 (17) and (16) of the Controlled Substances Act [21 U.S.C. 802 (17), (16)]. Hence, under the authority vested in the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that § 1308.14 of Title 21 of the Code of Federal Regulations (CFR) be amended by deleting subsection (f)(1) in its entirety, renumbering existing subsection (f)(2) as (f)(1), and by adding a new subsection (b)(2) to read:

§ 1308.14 Schedule IV.

* * * * *

(b) *Narcotic Drugs.* * * *

* * * * *

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxymethyl) 9273

Narcotic Requirements and Effective Dates

DEA currently requires all manufacturers, distributors, practitioners, importers and exporters of dextropropoxyphene to comply with all applicable Schedule IV controlled substances requirements concerning registration, security, labeling and packing, inventory and recordkeeping, prescriptions, importation and exportation. The classification of dextropropoxyphene as a narcotic will add the following requirements:

1. *Narcotic Treatment Programs.* Under the provisions of the Narcotic Treatment Act of 1974 (Pub. L. 93-281, May 14, 1974) and the regulations of

DEA and FDA, narcotic treatment programs are currently using methadone, a Schedule II narcotic drug, in detoxification and maintenance treatment. However, a smaller number of practitioners have also been using dextropropoxyphene to treat drug dependent persons.

The classification of dextropropoxyphene as a narcotic drug in Schedule IV by this final order will result in practitioners currently treating persons for drug dependence with dextropropoxyphene no longer being able to do so since its status as a schedule IV narcotic drug places it under the provisions of the Narcotic Treatment Act of 1974 and the applicable DEA and FDA regulations. Since the only drug authorized to be used under the FDA regulations (21 CFR 291) is methadone, practitioners currently using dextropropoxyphene to treat drug dependent persons must terminate such activity within 120 days of the publication of this order.

Two possible alternatives available within the 120 day period are for the patients involved to obtain treatment in an existing methadone program or for the concerned practitioner to seek FDA authority to commence a methadone treatment program.

2. *Records.* Any person registered as a practitioner to dispense dextropropoxyphene as a Schedule IV narcotic, is required to keep records pursuant to 21 CFR 1304.21 and 1304.28 and shall maintain such records on dextropropoxyphene. Registered practitioners whose dispensing activities of dextropropoxyphene are limited to administering or prescribing are not affected by these provisions (21 CFR 1304.03(b)).

3. *Exportation.* Any person who intends to export dextropropoxyphene who is not registered to export Schedule IV narcotic drugs must submit an application for registration to do so, pursuant to §§ 1311.21 and 1312.21 of Title 21, Code of Federal Regulations. All exportation of dextropropoxyphene shall be in compliance with 21 CFR 1312.23 which requires the registered exporter to obtain a permit from DEA for such exportation.

4. *Importation.* The provisions of Section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) only allow the importation of certain controlled substances including any narcotic drug in Schedule IV "during an emergency in which domestic supplies of the substance or drug are found by the Attorney General to be inadequate" (Section 1002(a)(2)(A)) or "in any case in which the Attorney General finds that competition among

domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303" (Sec. 1002(a)(2)(B)). Since this final order classifies dextropropoxyphene as a narcotic drug in Schedule IV, and no findings have been requested or made relative to providing authority to import dextropropoxyphene when classified as a Schedule IV narcotic drug, no import permits will be granted by DEA 180 days after the publication of this final order unless the required authority to import dextropropoxyphene is obtained pursuant to Section 1002(a)(2) (A) or (B) and applicable regulations.

(Secs. 201, 202, 501(b), 84 Stat. 1245, 1246, 1248, 1249, 1250, 1251, 1252, 1271, 21 U.S.C. 811, 812, 871(b))

Dated: June 17, 1980.

Peter B. Bensinger,
Administrator, Drug Enforcement
Administration.

[FR Doc. 80-10641 Filed 6-23-80; 8:45 am]

BILLING CODE 4410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-1521-8]

Oregon; Approval and Promulgation of the Implementation Plan

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: By this notice, EPA today announces its approval of portions of the State Implementation Plan (SIP) for Oregon which were received by EPA on June 27 and July 6, 1979. EPA is also taking final action to conditionally approve other elements of Oregon's SIP revision. In accordance with conditional approval, the State of Oregon is required to submit to EPA materials to satisfy the various conditions within six months from the date of this publication. These plan revisions were prepared by the State of Oregon to meet the requirements of Part D (Plan Requirements for Non-attainment Areas) of the Clean Air Act (hereafter referred to as the Act), as amended in August 1977 (42 U.S.C. 1857 et seq.).

EFFECTIVE DATE: June 24, 1980.

FOR FURTHER INFORMATION CONTACT:
Michael J. Schultz, Coordination and
Planning Section, M/S 625,
Environmental Protection Agency,
Region 10, 1200 Sixth Avenue, Seattle,

WA 98101. Telephone No. (206) 442-
1226, FTS 399-1226.

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I. INTRODUCTION

EPA finds that good cause exists for making the action taken in this notice immediately effective for the following reasons: (1) Implementation plan revisions are already in effect under State law and EPA approval poses no additional regulatory burden, and (2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979 or as soon thereafter as possible.

This notice follows the January 21, 1980 issue of the *Federal Register* (45 FR 3929), wherein EPA published a notice of proposed rulemaking which described the nature of the Part D SIP revisions, discussed certain provisions of the Oregon Part D SIP revisions which in EPA's judgment did not comply with the requirements of the Act, and requested public comment. State and local agencies of Oregon submitted official responses to the proposed rulemaking. No other official comments specific to this rulemaking were received.

The EPA has reviewed comments received on the proposed rulemaking and is taking the following actions:

1. *Approval.* Carbon monoxide (CO) attainment plans for the Portland, Salem, Eugene-Springfield, and Medford-Ashland non-attainment areas.
2. *Conditional Approval.* (a) Ozone (O₃) attainment plans for the Portland, Salem, and Medford-Ashland non-

attainment areas; (b) New source review (NSR) regulations; (c) Stationary source hydrocarbon regulations (including source test procedures and compliance schedules); and (d) the automobile inspection and maintenance (I/M) program for Portland. The conditional approval requires DEQ to submit additional materials to satisfy the conditions.

The status of the Eugene-Springfield O_3 area which was redesignated to attainment on January 21, 1980 (45 FR 3929) and the TSP attainment plans for Portland, Eugene-Springfield, and Medford-Ashland non-attainment areas are discussed. Because a Part D plan is no longer required for Eugene-Springfield O_3 , and the TSP non-attainment plans for Portland, Eugene-Springfield, and Medford-Ashland are not due yet, EPA is not taking action with respect to these plans at this time.

In this notice, (a) the SIP is summarized, (b) key issues relating to approval and conditional approval are discussed, (c) summaries of comments on EPA's proposed rulemaking are provided, and (d) EPA's final action on each portion of the SIP is described. It is important to note that actions being taken in this publication are limited to those requirements contained in Part D of the Act.

Further information in this notice is divided into two sections entitled "Background" and "Plan Review." The first section outlines the background leading to the development of the Oregon SIP in relation to the Clean Air Act Amendments of 1977. The Second Section, entitled "Plan Review", is divided into two major sub-sections. The first, "General Regulations", discusses regulatory portions of the plan applicable to more than one non-attainment area; e.g., Volatile Organic Compounds (VOC), New Source Review (NSR), Inspection and Maintenance (I/M), etc. The second section, "Non-Attainment Area Plans," provides a description of each pollutant specific plan. Deficiencies, the State and local responses to EPA's proposed rulemaking, and EPA final actions are summarized at the end of each topical discussion.

II. BACKGROUND

A. Designation Process

Pursuant to the requirements of Section 107(d) of the Act, the EPA published in the Federal Register on March 3, 1978 (43 FR 8962) and on October 19, 1979 (44 FR 60341) a designation of the attainment status of certain areas in the State of Oregon with respect to the National Ambient Air

Quality Standards (NAAQS) for total suspended particulates (TSP), carbon monoxide (CO), and ozone (O_3). This designation process triggered required revisions to the Oregon State Implementation (SIP) as discussed below.

B. Revision Process

The 1977 Amendments to the Act require States to make extensive revisions to their State Implementation Plans (SIPs). These revisions fall into three major areas:

- (1) Provisions for attainment and maintenance of NAAQS in those areas where air quality standards are being violated (required in Part D of the Act);
- (2) Plans for prevention of significant deterioration (PSD) to protect those areas with clean air (required in Part C of the Act); and
- (3) General SIP requirements which have statewide applicability (e.g., Section 128—State Boards).

This notice presents the results of EPA's review of plans developed by the State of Oregon Department of Environmental Quality (DEQ) to comply with the requirements of Part D of the Act. A PSD plan, requirements for which may be found in 40 CFR 51.24, and general SIP requirements having statewide application were also developed by the State and submitted for approval. Rulemaking for these latter two plan revisions will be treated in separate actions at a later date.

The Oregon Part D SIP revision was developed and submitted to EPA to satisfy the requirements of the Act as amended in 1977 and is intended to update the presently approved SIP. Specific guidance for an approvable Part D SIP is described in a General Preamble published in the April 4, 1979, Federal Register (44 FR 20372); supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). This guidance is incorporated by reference and will not be restated here. Additional guidance was published in the "EPA/DOT Transportation Planning Guidelines" and the "Transportation SIP Checklist." General requirements for all SIPs are contained in 40 CFR Part 51.

In accordance with Section 174 of the Act, primary responsibility for preparing carbon monoxide (CO) and ozone (O_3) control plans was delegated by the Governor to organizations of local elected officials. In the State of Oregon, the designated organizations are the Metropolitan Service District (MSD) for the Portland non-attainment area, (responsibilities for this area resided with the Columbia Regional Association

of Governments (CRAG) until December 31, 1978 when CRAG was abolished and its responsibilities assumed by the MSD); the Mid-Willamette Valley Council of Governments (MWVCG) for the Salem non-attainment area; the Lane Council of Governments (LCOG) for the Eugene-Springfield non-attainment area; and the Jackson County Board of Commissioners for the Medford-Ashland non-attainment area. As a result of these designations, a description of the responsibilities to be assumed by the various State and local agencies involved in the planning process was developed. Designated lead agencies were generally responsible for the transportation control plan development, while the State in general retained responsibility for stationary source control efforts. The locally prepared plans were submitted to DEQ and combined with the State-developed portions of the SIP revisions for submission to EPA.

One of the more notable aspects of the SIP revision process in Oregon has been the extremely active public participation program. The thrust of this program has centered on three local, broad-based advisory committees. These committees were jointly appointed by DEQ and local governments in the Portland, Eugene, and Medford area, and served to advise DEQ as well as the local lead agencies on SIP revisions. Because of the relatively non-complex SIP revision requirements for Salem, public participation in this area was handled through advisory groups of the MWVCG.

Activities common to the advisory committees included participation in a clean air workshop sponsored by the Oregon Environmental Quality Council (EQC); testifying before the 1979 Oregon Legislature on bills affecting open burning, indirect sources, inspection and maintenance, banking and offsets; preparing citizen involvement brochures; advising and reviewing rules and strategies relating to the 1979 SIP revisions; and testifying before the EQC on the proposed SIP revisions.

The 23-member Portland area advisory committee was formed in June 1978, and held 22 major meetings and numerous other sub-committee meetings by June 1, 1979. Accomplishments included development of an interstate working agreement with the Clark County Regional Planning Council (Washington) and evaluation and recommendations on appropriate control levels for particulate sources.

The 25-member Eugene area advisory committee was formed in February 1978, and held 23 meetings through June 1979.

Accomplishments included recommendations for appropriate particulate emission standards for industrial sources and in-depth studies of road dust sources and control measures.

The 23-member Medford area advisory committee was formed in September 1977 and held over 100 hours of public meetings. Accomplishments included recommendations on a particulate control strategy; modification of local slash burning mixing height criteria; establishment of a daily telephone advisory for air quality data; establishment of voluntary inspection and maintenance program; and adoption of a stringent offset program.

After working closely with EPA Region 10, draft SIP revisions were completed and public hearings held in May 1979. Based on comments received, modifications were made and SIP revisions were adopted by the Oregon EQC on June 8 and June 29. The SIP was officially submitted to EPA on June 20 and 29, 1979. Circumstances surrounding this two-part submission were discussed in two Federal Register notices of plan availability: June 6, 1979 Federal Register (44 FR 39485) and July 26, 1979 Federal Register (44 FR 43756).

On November 1, 1979, EPA met with DEQ to discuss noted deficiencies in the State's Part D revision. Results of this meeting and EPA's review of the SIP submittal served as the basis for a notice of proposed rulemaking published in the January 21, 1980 Federal Register (45 FR 3929).

C. Review/Approval Process

It is important for reviewers of this final rulemaking to understand the overall nature of SIPs and of EPA's review and approval role, with special focus on the Part D requirements of the Act. Central to such an understanding is recognition that designations may be characterized on a geographical or a pollutant-specific basis.

Therefore, it is possible for Part D SIP revisions to be adequate for one pollutant or geographical area but inadequate for others. It is EPA's policy to treat the separate revisions as severable to the maximum extent possible. As a result, this notice contains a series of actions rather than a single action. EPA's final position on each of the severable revisions was determined after careful consideration of all responses submitted after the notice of proposed rulemaking was published on January 21, 1980 (45 FR 3929). The following three optional actions were considered for each of the severable Part D revisions:

1. Approval, outright, where the SIP or the portion under consideration meets all requirements;

2. Disapproval where the State does not agree to correct deficiencies or where deficiencies are of such magnitude as to significantly interfere with the basic objective; or

3. Approval with conditions, where deficiencies exist, but where the effect of the deficiency is not judged to be major and where the State has agreed to take those steps necessary to correct the deficiency. In this case, it is EPA's intent that the State proceed expeditiously to correct the noted deficiency.

The reader of this document should keep in mind that the Act presented a very complicated set of requirements which had to be met in a relatively short period of time. The Act also specified that many decisions regarding the selection of air pollution control strategies were to be made at the local governmental level and required adequate public participation. Establishing a process to generate the necessary local governmental and public input to major air quality decisions has been a difficult and time consuming task. Thus while this notice tends to focus on deficiencies in the Part D SIP revisions, EPA feels the State of Oregon and the participating local agencies should be commended for their efforts to involve the public in the SIP revision process.

D. Comments on Proposed Rulemaking

During the comment period following EPA's January 21, 1980 proposed rulemaking on this Part D SIP revision (45 FR 3929), two responses were received from the State of Oregon and one from a local authority. DEQ submitted an official response to each of EPA's proposed actions. The State Department of Transportation responded to specific deficiencies noted in the Portland CO plan. Additional comments on deficiencies in the transportation portion of the Portland CO plan were submitted by the Portland Metropolitan Area Transit Authority (TriMet). Individual comments will be discussed in this notice by subject. No other comments specific to the Oregon plan were received on the proposed rulemaking.

However, one out-of-state commenter submitted extensive comments which it requested be considered part of the record for each state plan. Each of the points raised by the commenter and EPA's response follow. Although some of the issues raised are not relevant to provisions in Oregon's submission, EPA is notifying the public of its response to these comments at this time.

1. The commenter asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of their comments on each state plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commenter objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the Act. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commenter noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co. v. Costle*, 13 ERC 1225 (D.C. Cir., June 18, 1979). In the commenter's view, the court's rulings on the definition of "source," "modification," and "potential to emit" should apply to Part D as well as PSD programs. In addition, the commenter believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification," and "potential to emit," and the areas in which NSR applies, govern State plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979). In proposed rules published in the Federal Register on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979 proposal addressed some of the issues raised by the commenter. To the extent necessary, EPA will respond in greater detail to the commenters' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979 proposal, EPA proposed regulations for Part D plans in Section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. Prior to

promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously-submitted SIP's, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 406(d) of the Act, to submit revisions after EPA promulgates the final regulations. Since the [State] NSR program satisfied existing [or proposed] requirements for Part D, it is now being approved.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commenter questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commenter noted, EPA has set forth its proposed bubble policy in a separate Federal Register publication (44 FR 3720 [January 18, 1979]). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commenter questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commenter also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impracticable, it would not constitute a reasonably available control measure.

6. The commenter found the discussion in the General Preamble of reasonably available control technology (RACT) for VOC sources covered by Control Technique Guidelines (CTGs) to be confusing in that it appeared to

equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs. The CTGs provide recommendations to the States for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7. The commenter suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commenter questioned EPA's authority to require States to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commenter suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commenter's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation. EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a State fails to submit an approvable Part D plan. See 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

Comment: Another commenter, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of State boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commenters argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under Part D.

In those States that fail to correct the omission within the required time, the commenters urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

Response: To be fully approved under Section 110(a)(2) of the Act, a State plan must satisfy the requirements for State boards and permit fees for all areas, including

nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with other States to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the State board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

E. Conditional Approval

EPA is taking final action to conditionally approve certain elements of Oregon's plan. A discussion of conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979). In essence, however, conditional approval is an option where minor deficiencies in a State plan can be remedied by submission of additional materials by a specified deadline. EPA will follow the procedures described below when determining whether the State of Oregon has satisfied the conditions by the deadline specified in today's notice.

1. If the State submits the required additional documentation by the scheduled date, EPA will publish a notice in the Federal Register announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the State fails to submit the necessary documentation by the scheduled date, EPA will publish a Federal Register notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on stationary source growth are in effect.

As a part of this final rulemaking, EPA is requiring all conditions identified in this notice to be satisfied, unless

otherwise stipulated, no later than six months from the date of this publication. EPA had earlier proposed (45 FR 3929) July 1, 1980 as the deadline for meeting conditions. However, the DEQ documented the need for a six month period to complete the necessary SIP revisions consistent with public participation procedures. Except for noted conditions on approval, the Oregon Part D SIP revision was found to comply with all requirements, including those contained in Section 172 of the Act.

III. PLAN REVIEW

This section is divided into two major sub-sections. The first, "General Regulations" briefly describes the regulatory portions of the plan applicable to more than one non-attainment area; e.g., Volatile Organic Compounds, New Source Review, Inspection and Maintenance, etc. The second sub-section, "Non-Attainment Area Plans" discusses each area pollutant-specific plan in terms of plan development, emission reduction required, and control strategy proposed. For each major topic within the sub-sections, the following discussions are also presented:

- (1) Deficiencies as noted in the January 21, 1980 proposed rulemaking Federal Register (45 FR 3929).
- (2) Response to the deficiencies noted in the above Federal Register.
- (3) EPA final action.

A. General Regulations

1. New Source Review (NSR)

OAR 340-20-190 through -197 are new regulations intended to fulfill the New Source Review requirements contained in Part D of the Act. Rules -190 through -195 are the "Special Permit Requirements for Sources Locating in or Near Non-Attainment Areas." Rules -196 and -197 provide DEQ with the option of requiring plant site emission limits on sources located anywhere in the State to ensure that emissions are, in fact, consistent with the control strategies and overall airshed carrying capacity.

These rules have, in general, been found to satisfy the NSR requirements of Part D. In particular, the State is requiring offsets, lowest achievable emission rate (LAER) and statewide compliance provisions for major new or modified sources. Statewide compliance requires that all other sources in the State, which are owned by the company applying for a permit to construct or operate a new or modified source in a non-attainment area, be in compliance with applicable rules and regulations.

However, EPA is requiring that the State revise its regulations to correct certain identified deficiencies.

a. *Emission Offset—i. Deficiency.* OAR 340-20-192(1) contains an offset requirement but no offset program was adopted. Such a program is needed if offsets are to be employed.

ii. *State Response.* The DEQ has agreed to develop and include in their SIP a specific emission offset program.

iii. *Final Action.* EPA conditionally approves the emission offset rule provided that the State corrects the above deficiency per their agreement.

b. *Multiple Sources under Single Ownership—i. Deficiency.* OAR 340-20-192(3) does not satisfy the requirement of Section 173(3) of the Act in that the State regulation allows for issuing a permit to construct or operate a new source in a non-attainment area if the other sources owned by the same company in that State are in compliance only "with applicable requirements of the adopted State Plan." The Act requires that other sources owned or controlled by the same company in that state be in compliance "with all applicable emission limitations and standards under the Act."

ii. *State Response.* The DEQ has agreed to amend the language in their multiple source/single ownership limitation to conform to the specific requirements of the Act.

iii. *Final Action.* EPA conditionally approves OAR 340-20-192(3) provided that the State corrects the above deficiency per their agreement.

2. Volatile Organic Compounds (VOC)

Section 172 (a)(2) and (b)(3) of the Act requires sources of volatile organic compounds (VOC) to install, at a minimum, reasonably available control technology (RACT) in order to reduce emissions of this pollutant. 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.

EPA has developed Control Technology Guidelines (CTG) for the purpose of informing State and local air pollution control agencies of air pollution control techniques available for reducing emissions of VOC from various categories of sources. This information is designed to be useful to both control agencies and industry in defining appropriate RACT requirements for sources within the State. Along with information, each CTG contains recommendations to the States of what EPA calls the "presumptive norm" for RACT. This general statement

of agency policy is based on EPA's current evaluation of the capabilities and problems general to the industry. Where the State finds the presumptive norm applicable to an individual source or group of sources, EPA recommends that the State adopts requirements consistent with the presumptive norm level. The State may, if it chooses, require controls different from those identified in the CTG as long as: (1) Documentation is provided that the regulations do, in fact, represent RACT for that source(s); or (2) the emission reduction is not significantly different than (within 5 percent of) the reduction achievable by implementing the presumptive norm.

As noted in the General Preamble for Proposed Rulemaking on approval of Plan Revisions for Non-Attainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as Oregon's includes RACT requirements for VOC sources covered by CTGs issued by EPA through January 1978, and schedules to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980, by Federal Register notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the Oregon plan is contingent on the submittal of the additional RACT regulations which are due by July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

Oregon VOC Regulations OAR 340-22-100 through -150, fall short of meeting RACT requirements for those VOC sources covered by CTGs which were issued by EPA prior to January, 1978.

a. *Gasoline Marketing—i. Deficiencies.* (1) OAR 340-20-100(9): The present definition of "delivery vessel" excludes the transfer of gasoline from terminals to bulk plants from vapor control requirements.

(2) OAR 340-22-110 and -115: The 90 percent vapor capture requirement has not been shown to be equivalent to a

vapor tight balancing system. This demonstration of equivalency or replacement of the 90 percent rule with an equipment specification rule requiring a vapor tight balancing system is needed.

(3) OAR 340-22-110(2)(C) and -115(5): Vapor capture requirements are conflicting. The exemption for vapor recovery provided in 340-22-110(c) should be made consistent with that provided in 340-22-115(5).

(4) OAR 340-22-115(5): Exempting delivery vessels and storage tanks at gasoline dispensing facilities from vapor capture requirements, where the source (gasoline dispensing facility) receives 250,000 gallons of gasoline or less per year from a bulk plant, has not been shown to be RACT. The State must either: (a) Demonstrate that exempting gasoline dispensing facilities and delivery vessels from vapor capture requirements is RACT so long as the gasoline is from a bulk gasoline plant and the dispensing facility receives no more than 250,000 gallons of gasoline or less per year, or (b) restrict the gasoline dispensing facility size cut-off exemption from 250,000 gallons per year to the recognized CTG exemption of 10,000 gallons per month.

(5) OAR 340-22-122(1): Permitted exceptions to the requirement for vapor capture during the filling of tank trucks at bulk gasoline terminals were not identified. The specified exceptions must be provided.

ii. *State Response.* The DEQ has committed to make the following changes to their gasoline marketing rules:

(1) The definition of "delivery vessel" will be changed so as to require vapor control (where previously excluded) in the transfer of gasoline from terminals to bulk plants.

(2) The conflict in vapor capture exemptions between OAR 340-20-110(2)(c) and OAR 340-20-115(5) will be eliminated by removing the language in -110(2)(c) from the rules.

(3) The 250,000 gallon per year exemption for service stations noted in deficiency (4) above will be reduced to 10,000 gallons per month.

(4) The permitted exceptions to vapor capture requirements referred to in OAR 340-22-122(1) will be clarified. Trucks switching from gasoline to diesel will be identified as the sole exemption.

(5) The vapor capture requirements in OAR 340-22-110 and -115 will be revised to require vapor tight capture systems.

ii. *Final Action.* EPA conditionally approves the gasoline marketing regulations provided that the State

makes those changes as discussed above.

b. *Cutback Asphalt—i. Deficiency.* OAR 340-22-125 contains no limitations on the use of solvents in emulsified asphalt. EPA has published a list of emulsified asphalt uses with corresponding maximum solvent contents. This guidance should be used in establishing limits on the addition of solvents to emulsified asphalt.

ii. *State Response.* The DEQ has committed to add limits, consistent with EPA guidance, to the amount of solvent which can be added to emulsified asphalts.

Final Action. EPA conditionally approves the asphalt rule provided that the State adds the above mentioned restrictions on solvent content of emulsified asphalts.

c. *Surface Coating—i. Deficiencies.* (1) OAR 340-22-140 does not specify that the term "coating line" includes the coater, flash-off area, and dryer.

(2) OAR 340-22-140 provides no documentation that the less restrictive emission requirements permitted for "inert gas process paper coating" are in fact RACT.

ii. *State Response.* The DEQ has committed to complete the following actions regarding surface coating rules:

(1) The term "coating line" will be defined so as to include the coater, flash-off area, and dryer.

(2) Documentation that the "inert gas process paper coating" rule is RACT will be submitted to EPA.

iii. *Final Action.* EPA conditionally approves the surface coating rule provided the State meets its above mentioned commitments regarding the definition of "coating line" and a demonstration of RACT for "inert gas process paper coating," or the State submits a revised surface coating regulation equivalent to RACT.

d. *Degreasers—i. Deficiencies.* (1) OAR 340-22-145: The cold cleaner rule fails to provide specific requirements for agitated solvents, heated solvents, and solvents with higher vapor pressures.

(2) OAR 340-22-146: The open top vapor degreaser rule does not require both a powered cover and specific freeboard ratio.

(3) OAR 340-22-147: The conveyerized degreaser rule does not require a major control device for those degreasers with an air/vapor interface greater than two square meters.

ii. *State Response.* The DEQ has committed to the following actions:

(1) Adding specific cold cleaner requirements for agitated solvents, heated solvents, and solvents with high vapor pressures.

(2) Changing the open top vapor degreaser rule to require both a powered cover and specific freeboard ratio.

(3) Requiring a major control device for conveyerized degreasers with an air/vapor interface greater than two square meters.

iii. *Final Action.* EPA conditionally approves the degreaser rules provided that the State completes the above three changes to rules for cold cleaners, open top vapor degreasers, and conveyerized degreasers.

e. *Source Test Procedures and Compliance Schedules.* Discussions are provided under "Other Rules/Regulations."

f. *Exemption of Methyl Chloroform and Methylene Chloride.* The Oregon regulations include exemptions for methyl chloroform and methylene chloride. The exemption is based on the fact that these compounds are photochemically unreactive and therefore do not play a significant role in ozone formation. Thus, the Oregon VOC regulation is approvable insofar as this exemption is concerned. However, both compounds may be subject to future regulation, not to meet the O₃ national ambient air quality standard (NAAQS), but because of evidence that they may be a direct health hazard. This possibility is stated here to put persons who may desire to take advantage of these exemptions on notice regarding the possibility of future control requirements for these compounds before conversion decisions are made.

3. Inspection and Maintenance (I/M)

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Enforcement can be accomplished by requiring proof of compliance to purchase license plates or before vehicle registration. In some cases, a windshield sticker system is used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that State Implementation Plans which include non-attainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 is granted. The plan provisions shall "establish a specific schedule for

implementation of a vehicle emission control inspection and maintenance program * * *

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking 44 FR 20372, 20373, n 6. Though the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

- **Legal Authority.** States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to establish the inspection/maintenance program. (Section 172(b)(10).)

- **Commitment.** The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172 (b)(10).)

- **Resources.** The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)

- **Schedule.** A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(B).) Interim milestones are specified in the July 17, 1978 memorandum in accordance with the general requirement of 40 CFR 51.13(c).

- **Program Effectiveness.** As set forth in the July 17, 1978 memo, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This is not a specific requirement of the Act but is EPA's policy based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, and adopting all necessary rules and regulations. I/M legal authority must be

included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a State legislature has had no opportunity to consider enabling legislation.

Written evidence is also required to establish that appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan." (Section 172(b)). When an I/M program is based on general enabling legislation, commitments must be made by all agencies involved in implementation or enforcement. Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B)). The July 17, 1978, memorandum established as EPA policy, seventeen key milestones for the implementation of an I/M program. These milestones were the general SIP requirements for compliance codified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. While this specific requirement is not explicitly in the Act, the Act does mandate "Implementation of all reasonably available control as expeditiously as practicable." Section 172(b)(2). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not undergone I/M before. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the programs).

A mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts the reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce

greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

I/M for Portland was authorized by the State legislature in 1973. The program was initiated in January 1974 on a voluntary basis and continued as such for 18 months. A centralized, state-operated biennial program became mandatory in mid-1975. With few exceptions, all gasoline powered vehicles must be inspected and meet emission standards if they are to be licensed. No waivers are provided for those automobiles requiring expensive repairs to meet the emission standards. A continuation of the present vehicle I/M program is a key element in both the O₃ and CO emission strategies for Portland; I/M is also a high priority alternative for other O₃ and CO attainment strategies in Oregon.

A key factor in evaluating the adequacy of the Portland I/M program was whether minimum emission reduction requirements would be met. More specifically, EPA questioned the ability of Portland's I/M program to demonstrate compliance with the 25% emission reduction requirement for CO and hydrocarbon emissions from passenger cars. The Portland I/M program requires inspection once every two years. Results from EPA's study of the Portland program indicates biennial inspection frequency provides less emission reduction than an annual program. However, EPA's analysis also predicts that the Portland I/M program will achieve at least a 25% CO and HC emission reduction by 1987. This optimistic prediction from a biennial program is due largely to the early initiation of I/M in Portland.

i. **Deficiency.** ORS Chapter 449 which included DEQ authority for the I/M program was approved by EPA in 1972. The approved SIP (40 CFR 52.1974) required submission of the regulations adopted pursuant to ORS Chapter 449. These regulations have not been submitted and approved by EPA. In addition, ORS Chapter 449 has been recodified and the motor vehicle inspection laws are now contained in ORS 468.360 to 468.420. In order to meet the requirements of § 51.11 of this chapter, the legal authority for the I/M program must be submitted by the State as part of its SIP revision.

ii. *State Response.* The DEQ has submitted the recodified portions of ORS 449. The statutes are numbered ORS 468.360 through 468.420, 481.190, 481.200, 483.800, 483.805, 483.820, and 483.825. A public hearing on the operating regulations for the I/M program is scheduled for May 19, 20, and 21, 1980. The subject regulations are OAR 340-24-005 through 340-24-350, with revisions to Section -305, -320, -330, and -335. Upon approval by the Environmental Quality Commission during its June 20, 1980 meeting, the regulations will be submitted to EPA by early July. As further background, DEQ noted that it had submitted operating regulations for the I/M program to EPA in 1976, 1977, and again in 1978. EPA had expressed doubt that these submittals met the procedural requirements set out in § 51.4 of this chapter and therefore these submittals were withdrawn and DEQ agreed to resubmit all regulations and statutes applicable to the Oregon program as soon as practicable.

iii. *Final Action.* EPA conditionally approves Portland's I/M program provided that the State submits its operating regulations to EPA by July 15, 1980.

4. Other Rules/Regulations

a. *Source Test Procedures.* To maintain SIP enforceability, source test procedures for each emission limitation must be included in the SIP, or the SIP must contain specific reference to a properly identified source test method which is submitted for the record along with the SIP. The reference would normally include the title, number (if the method is coded), and the date of the appropriate version of the method(s).

Oregon's SIP does not contain source test procedures but does refer to specific methods on file. Many of these procedures have been approved by EPA. Further, the SIP references to specific source test procedures do not include dates for the methods (as required above). However, EPA considers the approval date of this Part D revision as the date of these source test procedures. Any significant modification to the procedures, if they are to be Federally enforceable, will have to be adopted and submitted to EPA for approval.

i. *Deficiency.* VOC source test methods have not been submitted by the State for EPA approval.

ii. *State Response.* The DEQ has committed to submit the VOC source test procedures.

iii. *Final Action.* EPA further conditions the approval of VOC rules pursuant to the State submitting approvable source test procedures.

b. *Compliance Schedules.* All sources subject to the new Part D emission regulations must have compliance schedules. These schedules are to meet the requirements of 40 CFR 51.15 and 51.1(q), and should be submitted for approval along with the Part D revisions.

i. *Deficiency.* Although the subject SIP revisions contain final compliance dates for sources subject to the Oregon VOC rules (OAR 340-22-100 through -150), required increments of progress, as required by 40 CFR 51.15, were omitted. The public participation requirements found in 40 CFR 51.4 are also applicable and must be satisfied prior to adoption of the subject schedules by the State.

ii. *State Response.* VOC rules will be revised to incorporate categorical compliance schedules, including increments of progress.

iii. *Final Action.* EPA also conditions the approval of VOC rules subject to the State submitting formally adopted compliance schedules for VOC sources.

c. *Continuity of Regulations.* The measures approved or conditionally approved are in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, which may include assessment of non-compliance penalties.

There are two main exceptions to this rule. First, if a pre-existing control requirement is incompatible with a new, more stringent requirement, the State may exempt sources from compliance with the pre-existing regulations during the period when compliance with the existing requirement conflicts with achieving compliance with the new requirement. Any exemption granted would be reviewed and acted on by EPA as a SIP revision; decisions would be made on a case-by-case basis. Second, an existing requirement can be relaxed or revoked if the revision will not interfere with attainment of standards.

d. *Attainment Dates and Compliance Deadlines.* The 1978 edition of 40 CFR Part 52 lists in the subpart for Oregon the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each non-attainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Oregon's

attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements more time to comply with those requirements.

As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D. (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. The two exceptions to this rule are noted in the above discussion under "Continuity of Regulations."

e. *Director's Discretion.* Many SIPs contain provisions which allow one or more State air pollution officials, at their discretion or under specified conditions, to grant certain changes or exemptions to SIP requirements. These State actions may be described as variances, equivalency determinations, orders, extensions, exemptions, exceptions, suspensions or something similar. For example, a SIP may specify that the installation and proper use of a certain type of control equipment is required, unless the director of the State agency,

after fulfilling some procedural or substantive criteria, determines that another type of control equipment is equivalent to that specified. An additional example is a SIP provision which allows an exemption from the generally applicable emission limitation when conforming fuel is unavailable due to emergency circumstances. The most general type of discretionary authority provision in a SIP specifies that any source may apply for a variance from the applicable requirements and that a State agency official may grant such a request if certain procedural and substantive criteria are met.

At the request of the State involved, EPA has approved these procedures as part of the SIP. In some cases, the EPA approval has stated explicitly that State actions under the approved procedures must be submitted separately as SIP revisions in order to become part of the Federally approved, Federally enforceable SIP. In some other cases, EPA's approval has not addressed the question of whether separate submittals are required. The Agency wishes to clarify the effect of its approval of the procedures in order to distinguish the procedures themselves from specific actions taken in accordance with those procedures.

Any specific action taken by a State official, even if authorized under procedures approved by EPA, does not modify the Federally approved SIP unless submitted to and approved by EPA as a separate revision to the SIP. (See 40 CFR 51.6(c)) Under 40 CFR 51.8, such SIP modifications do not replace EPA approved SIP provisions unless approved case-by-case by EPA as meeting the requirements of Section 110 of the Act and 40 CFR Part 51. Thus, while EPA may approve the procedures a State employs to modify the SIP, it does not thereby approve individual actions which may be taken under these procedures.

Section 110 of the Act imposes on the EPA Administrator a duty to exercise his independent judgment that a State Implementation Plan submittal is adequate to assure attainment and maintenance of the national ambient air quality standards. The Act and EPA regulations allow the States great flexibility to develop individually tailored approaches to air pollution control; however, the Administrator cannot fail to exercise his independent judgment on any SIP submitted for his approval. Provisions in SIP submittals which are essentially procedural or which allow the exercise of State discretion on substantive matters, such as emission limitation requirements,

cannot be adequately evaluated since their effect on air quality cannot be determined until specific action is taken. Rather than disapprove them in all cases, EPA may approve such provisions where they are not otherwise disapprovable under Section 110. However, the air quality impacts of actions taken under these provisions must be evaluated by the Administrator before they can be recognized under Federal law.

It is not EPA's intention, however, that minor changes effected by a State official which do not change the substantive requirements applicable to one or more sources should be submitted as SIP revisions. Thus, the relocation of an ambient air quality monitor in accordance with Federal guidelines, for example, would not need to be reviewed for compliance with the Act.

State construction permits which have been issued in accordance with SIP procedures approved by EPA as satisfying 40 CFR 51.18 and which satisfy the Emission Offset Interpretative Ruling, Part D of the Act, or EPA's prevention of significant deterioration regulations, are enforceable by EPA and do not require case-by-case approval by EPA. See 44 FR 3274, January 16, 1979; and 40 CFR 52.21 and proposed changes at 44 FR 51924, September 5, 1979.

f. Ambient Air Quality Monitoring. EPA has several concerns with respect to monitoring for ozone and its precursors in the non-attainment areas. However, it is felt that the ongoing formal revisions to ambient air quality monitoring networks and further EPA guidance/requirements on data collection for the 1982 ozone SIP submittals will adequately address these issues.

B. Non-Attainment Area Plans

The non-attainment area plans are discussed in groups categorized by pollutant. Each discussion will provide: (1) A background statement, (2) the emission reductions required, (3) control measures (4) deficiencies, (5) State and or local response, (6) public comments, and (7) final action. Attainment date extension requests are discussed for those areas unable to attain CO and or O₃ standards by the end of 1982.

1. Extension Requests:

Under Section 172(a)(2) of the Act, the State has requested an extension of the attainment for CO and or O₃ in the following areas: Portland (CO and O₃), Eugene (CO) and Medford (CO). To document the need for these extensions, the State submitted a demonstration

that attainment by 1982 cannot be achieved for these areas despite implementation of all reasonably available control measures. Thus, EPA is approving these post-1982 attainment date extension requests.

For those areas receiving attainment date extensions for CO and or O₃, SIP development may take place in two stages. The first, which is addressed in this rulemaking, involves a commitment to evaluate and adopt control measures which will result in predicted attainment not later than December 31, 1987. The second stage, requires completion of a control strategy by July 1, 1982, with identification of an earliest practicable attainment date being not later than December 31, 1987.

2. Carbon Monoxide:

a. Portland.—(1) Background. The Portland CO non-attainment area is the Oregon portion of the Portland, Oregon-Vancouver, Washington AQMA non-attainment area. The 1970 census figures show the Portland standard metropolitan statistical area (SMSA) with a population of approximately 750,000. Four different monitoring sites have shown numerous violations during each year of operation (earliest site dates back to 1970). A screenline computer modeling technique indicates that much of the central business district, adjacent areas on the east side of the Willamette River, and additional heavily trafficked corridors are now in violation of the standard. Although violations are widespread throughout the area, the frequency of exceeding the 8-hour standard has been reduced significantly since 1971. The one-hour standard has not been exceeded at any site since 1971.

This problem has been attributed almost entirely to emissions from transportation sources. The emission inventory for 1977 shows a total of 779,000 tons per day (tpy) of CO being emitted, of which 97 percent originates from motor vehicles.

The designated lead agency for development of a CO plan is the Metropolitan Service District (MSD). Former Governor Straub originally designated the Columbia Regional Association of Governments as lead agency. However, the designation was shifted to a reorganized MSD after the Columbia Regional Association of Governments was abolished. The MSD has been working in close cooperation with the DEQ on the CO plan revision.

(2) Emission Reduction Required. Computer modeling predicts by the end of 1982, only a few streets in the central business district and one street in a suburb southwest of Portland will be

violating the 8-hour standard. By the end of 1987, all streets are predicted to be in compliance.

Since attainment by the statutory December 31, 1982 date is not projected, a formal request for a post-1982 attainment date has been made by Oregon pursuant to Section 172(a)(2) of the Act.

A design value of 17.4 mg/m³ was used to determine the emission reduction required. This value was derived from measured ambient air quality data.

(3) *Control Strategy*. In light of the dominant motor vehicle contribution to the CO non-attainment problem, the control strategy focuses on transportation measures. It should be noted that measures designed to reduce vehicle emissions work in one of two ways: (a) By reducing vehicle trips and miles traveled; i.e., improved mass transit carpooling, etc., or (b) by reducing the emissions from individual vehicles; i.e., inspection and maintenance, traffic flow improvements, etc. The Federal Motor Vehicle Control Program (FMVCP) falls into the latter category. Other control measures identified in the Portland CO plan fall into both of the above categories.

Measures already implemented, and, in some cases scheduled for further improvements over the near term, include:

- a. Inspection and maintenance (see preceding discussion on this topic);
- b. Improve public transit;
- c. Exclusive bus and carpool lanes;
- d. Area-wide carpool programs;
- e. Long-range transit improvements;
- f. Parking controls;
- g. Park-and-ride lots;
- h. Pedestrian malls;
- i. Employer programs to encourage carpooling and vanpooling;
- j. Traffic flow improvements;
- k. Bicycle program;
- l. Urban development policies to reduce vehicle miles travel (VMT).

Additional measures considered high priority for obtaining further emission reductions are listed below:

- (a) Inspection and maintenance on annual basis;
- (b) Additional public transit improvements;
- (c) Expanded carpool programs;
- (d) Additional long-range transit improvements;
- (e) Parking restrictions;
- (f) Additional park-and-ride lots;
- (g) Additional employer programs to encourage carpooling, vanpooling, mass transit, etc.;
- (h) Traffic flow improvements.

(4) *Deficiencies*—(a) *Beaverton Park and Ride*. The inclusion of a project in the Annual Element of the

Transportation Improvement Program is not an adequate commitment. Before the final approval of the SIP, EPA needs a letter from Oregon Department of Transportation (ODOT) indicating a commitment to fund the project and a schedule for start of construction.

(b) *Expanded Bus Service on I-5 Corridor*. The submission does not contain an adequate description of this project. Before the final approval of the SIP, EPA needs a letter from the transit authority describing the project, a schedule for implementation, and a funding commitment.

(c) *Traffic Flow Improvements*. The SIP does not contain a detailed list of traffic flow improvements which will improve air quality. Before final approval of the SIP, ODOT must identify specific projects and commit to their implementation.

(d) *Carpool Project*. The SIP does not contain a commitment to fund this project after June, 1980. Before final approval, a letter containing a commitment to fund this project from the appropriate agency is necessary.

(e) *Emissions Inventory*. The emissions inventory should be revised to include emissions from parking activities (parking lots and on-street parking). EPA expects that this will be completed during 1980 along with the alternatives analysis. This problem is not serious enough to be considered a deficiency and thus does not warrant conditioning the approval of the SIP.

(5) *State/Local Response*. (a) Letters submitted by the ODOT and the local Tri-County Metropolitan Transportation District in response to published deficiencies adequately address EPA's concerns.

(b) The DEQ has indicated that parking lot emissions are to be included in the July 1980 submittal of an alternatives analysis.

(6) *Final Action*. EPA approves this stage of development of the Portland AQMA CO attainment plan as all conditions identified in the notice of proposed rulemaking (45 FR 3929) have been met.

b. *Eugene-Springfield AQMA*—(1) *Background*. The non-attainment area boundaries are the same as those for the air quality program in Eugene-Springfield as it relates to both stationary source and transportation planning. Population of the area is substantially less than 200,000.

The lead agency responsible for development of a CO plan is the Lane Council of Governments, designated by former Governor Straub in accordance with requirements of Section 174 of the Act.

The only CO monitor in the area was installed in Eugene in mid-1975.

Violations of the 8-hour CO standard have been recorded during each of the first four years of operation. Two violations were measured in 1975, eleven in 1976, seven in 1977, one in 1978, but no violations in 1979 or the first quarter of 1980. Although modeling indicates that Eugene-Springfield will not attain CO standards until the end of 1985, measured ambient air quality data indicates that the area may in fact be attaining CO NAAQS at this time.

This air quality problem can be attributed almost solely to motor vehicle emissions. The 1977 emissions inventory (EI) shows that motor vehicles account for 58,000 tons per year (tpy) of CO emissions or approximately 95 percent of the total EI. Other sources of CO were calculated to have a negligible impact on air quality.

(2) *Emission Reduction Required*. A CO forecast model was used to determine the extent of the non-attainment problem assuming "worst case" meteorological conditions. Approximately 10 kilometers of roadway, located primarily in the Eugene central business district, were identified as having had the potential to violate NAAQS in 1977. This is predicted to be reduced to two kilometers of roadway by 1983 and attainment by 1985. Thus, only marginal non-attainment is predicted by the end of 1982. By taking credit for emission reductions from the FMVCP and emission reduction strategies already implemented, total CO emissions in the metropolitan area are expected to decrease 18 percent between 1977 and 1983. Reductions between 1977 and 1987 are predicted to be 32 percent. Although vehicle miles traveled will be increasing during this period, these increases will be more than offset by the control measures so that attainment by 1985 is predicted.

Because of this projected attainment date, a formal request for an extension (attainment later than 1982) was made pursuant to Section 172(a)(2) of the Act.

A design value of 12.7 mg/m³ was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy*. As the non-attainment problem is almost entirely motor vehicular in origin, the control strategy is restricted to transportation measures. It should be noted that measures designed to reduce motor vehicle CO emission work in one of two ways: (a) By reducing vehicle usage; i.e., improved mass transit, carpooling, etc., or (b) by reducing the emissions from

individual vehicles; i.e., inspection and maintenance, traffic flow improvements, etc. The FMVCP, an integral part of the control strategy, falls in the latter category of measures. Additional improvements are expected from measures which encompass both of the above categories.

Besides the FMVCP, emission reduction measures being implemented include the following:

- (1) Traffic engineering improvements;
- (2) Bikeways;
- (3) Transit development and improvement;
- (4) Pedestrian mall;
- (5) Staggered work hours;
- (6) Traffic flow improvement.

EPA feels that the State has submitted an adequate control strategy for this area. Numerous control measures beyond the FMVCP have been adopted and implemented. Further, 1970 census figures show a combined population for the two cities to be 105,000, thus absolving the lead agency from requiring I/M. EPA is satisfied that all reasonably available control measures have been adopted and are being implemented. Thus, no alternatives analysis or further control strategy development is being required at this time.

(4) *Deficiencies.* The emissions inventory does not include emissions from parking activities (parking lots and on-street parking). This omission is not serious enough to be considered a deficiency and thus does not warrant conditioning the approval of the CO control strategy.

(5) *State Response.* The DEQ has identified an agreement between itself and the Lane Council of Governments (lead agency for developing a CO attainment plan for this area) wherein the latter will provide information on CO emissions from parking activities in their emission inventory.

(6) *Final Action.* EPA approves the Eugene-Springfield AQMA CO attainment plan.

c. Salem—(1) *Background.* The official CO non-attainment designation for Salem included that area within the city limits. However, Mid-Willamette Valley Council of Governments (MWVCOG), the designated lead agency, expanded the "official" non-attainment area to include that area described by the Salem Area Transportation Study (SATS) boundaries.

This larger area, 124 square miles versus 32 square miles for the "official" non-attainment area, provides more appropriate coverage of the demographic and geographic Salem urban area and thus represents a more reasonable study area. Neither area, however, exceeds the 200,000 population

cutoff used to define the difference between urban and rural non-attainment areas.

As defined by air quality data, the non-attainment problem is relatively marginal. A single monitor located in downtown Salem annually recorded no more than six violations of the 10 mg/m³ 8-hour standard during the four year period of 1974 through 1977.

For all practical purposes, the entire contribution to the CO non-attainment problem is from motor vehicle emissions. The emission inventory shows that 52,250 tpy of CO originated from mobile sources (over 99 percent) while only 196 tons per year were attributed to stationary (area) sources.

(2) *Emissions Reduction Required.* Computer modeling shows that as base year 1977, 2.2 miles of roadway in the urban area were violating the 8-hour CO standard. By the end of 1982, marginal compliance is predicted from emission reductions to be obtained from the FMVCP. This reduction is expected to be 12,000 tpy.

A design value of 11.4 mg/m³ was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* Because of the dominant role of motor vehicular emissions, the CO control strategy is limited to transportation measures. In fact, the attainment plan takes credit for only the FMVCP in demonstrating attainment by the end of 1982.

However, 9 of the 14 EPA recommended reasonably available control measures are either already implemented or committed for implementation.

These measures, listed below, have not been accounted for in the control strategy and should result in measurable further improvement in CO levels:

- (1) Carpool program;
- (2) Express bus/park and ride program;
- (3) Bicycle plan;
- (4) Transit fleet expansion;
- (5) Private car restrictions;
- (6) On-street parking limitations;
- (7) Staggered work hours;
- (8) Pedestrian malls;
- (9) Traffic flow improvements.

(4) *Deficiencies.* (a) Modeling errors were noted in the vehicles miles traveled (VMT) growth rate curve. VMT growth rate was derived from population projections. However, the 1977 baseline population figures were found to be in error (too high). This resulted in identifying an emission reduction somewhat smaller than that actually needed. Consequently, Salem's

ability to attain standards by the end of 1982 was questioned.

(b) The emission inventory does not include emissions from parking activities (parking lots and on-street parking). This omission is not serious enough to be considered a deficiency and does not warrant conditioning the approval of the CO control strategy.

(5) *State Response.* (a) The DEQ corrected for errors in the baseline population figures and re-ran their analysis. Projected 1982 CO concentrations remained below the ambient standard.

(b) The Department stated that, in its opinion, the existing emission inventory in the model adequately accounts for parking lot emissions.

(6) *Final Action.* EPA approves the Salem CO attainment plan. The area is substantially below 200,000 population and corrected modeling results project attainment of the ambient CO standard by the end of 1982.

d. *Medford-Ashland AQMA*—(1) *Background.* The non-attainment area is defined by the AQMA boundaries which encompass the towns of Medford, Ashland, White City, and Eagle Point. Ambient air quality data from this area is limited but, nonetheless, conclusive. A single CO monitor located in downtown Medford has provided data only since 1977. However, numerous violations of the 8-hour standard have been recorded each year with 8-hour concentrations as high as 22 mg/m³. The one-hour standard has never been exceeded. Modeling has shown that an estimated 20 miles of roadway violated the 8-hour standard in 1977.

The base year 1977 CO emission inventory for the AQMA shows that approximately 83 percent of the 59,500 tons per year inventoried originated from motor vehicles.

Lead agency for development of CO attainment plan is the Jackson County Board of Commissioners. This group has worked closely with the DEQ and the very active citizens advisory committee to develop attainment plans for this area.

(2) *Emission Reduction Required.* Modeling has shown that an estimated 72 percent decrease in CO emissions would be required to attain the 8-hour standard. This problem has been compounded by a lack of traditional transportation planning due to the low population of this area (Medford, the largest town, has a 1970 census population of 28,500). However, the Jackson County Planning Department, lead agency for transportation related air quality planning, is presently developing a needed transportation control plan (TCP). Without this TCP,

modeling predicts that the 20 miles of non-attainment roadway estimated for 1977 is predicted to only decrease to 16 miles by 1982 with 12 miles still violating standards by 1987.

A design value of 19.8 mg/m³ was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* Since motor vehicle emissions are the prime culprit for the non-attainment problem, the control strategy needs to focus on transportation measures. However, the only existing control measure for this area is the Federal Motor Vehicle Control Plan, accounting for the above predictions of continued non-attainment. As a result, an attainment date extension request was submitted pursuant to Section 172(a)(2) of the Act. In light of this air quality problem, Jackson County has committed to evaluate reasonably available control measures by July 30, 1980, and develop and officially submit to EPA a control strategy under the Governor's signature by June 30, 1982. This strategy is to contain those measures necessary to attain the CO standard as expeditiously as practicable but no later than December 31, 1987. Those measures which appear most likely to be adopted are:

- (a) I/M;
 - (b) Parking and traffic circulation plan;
 - (c) Improved bicycle and transportation networks;
 - (d) Disincentives to private auto use;
 - (e) Ban on open burning.
- (4) *Deficiencies.* The emissions inventory does not include emissions from parking activities (parking lots and on-street parking). This omission is not considered serious enough to warrant conditioning the approval of the CO control strategy.

(5) *State Response.* The DEQ, in correspondence with the lead agency, has indicated that emissions from parking activities will be provided with the alternatives analysis being performed for this area.

(6) *Final Action.* EPA approves this stage of development of the CO attainment plan for the Medford-Ashland AQMA.

3. Ozone

Each of the ozone (O₃) non-attainment areas is also non-attainment for CO. However, unlike CO, ambient O₃ concentrations are generally not related to direct emissions to the atmosphere but are formed by complex reactions between VOC and oxides of nitrogen in the presence of sunlight. Attainment

strategies focus primarily on reducing hydrocarbon emissions and rely on both mobile source control programs and emissions reductions from stationary sources. Mobile source plans were discussed in the CO presentation and stationary source hydrocarbon controls were outlined in the VOC section. Further, the non-attainment area boundaries and designated lead agencies for O₃ are the same as for each corresponding CO plan. Thus, the following discussion of area specific O₃ plans will be brief.

a. *Portland—(1) Background.* Four monitors in the area, installed between 1974 and 1976, have shown the 0.12 ppm O₃ standard to be exceeded each year, with the highest concentration for any year being 0.23 ppm (451 ug/m³) in 1977. The 1977 base year emission inventory shows a total of 111,000 tons of VOC being emitted of which 65 percent are attributed to mobile sources.

(2) *Emissions Reduction Required.* The EPA city specific isopleth version of EKMA was used to identify needed emission reductions. In order to attain the 0.12 ppm standard, a 50 percent reduction in 1977 VOC emissions must be obtained. However, through implementation of all reasonably available control measures, only a 37 percent reduction is projected by the end of 1982. Thus, the State has requested, pursuant to Section 172(a)(2) of the Act, a post-1982 attainment date for O₃.

A design value of 0.183 ppm (365 ug/m³) was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* See the VOC discussion under "General Regulations" and the Portland CO control strategy.

(4) *Deficiencies.* (a) VOC Rules—Discussed by source category under "General Regulations, Volatile Organic Compounds."

(b) I/M Program—As discussed earlier, operating regulations necessary to implement the program have not been officially submitted in accordance with procedural requirements.

(c) Ambient Air Quality Monitoring—Concerns are not serious enough to warrant conditioning the approval of the O₃ control strategy (subject discussed in greater detail under "Other Regulations").

(5) *State/Local Response.* Those responses discussed for Portland CO and VOC rules also apply here.

(6) *Final Action.* EPA conditionally approves this stage of development of the O₃ attainment plan for the Portland non-attainment area provided that the conditions for approval of the VOC rules

are met, and provided that the State submits its I/M operating regulations to EPA by July 15, 1980.

b. *Eugene-Springfield AQMA.* A reassessment of air quality data after the federal standard was raised from 160 ug/m³ (0.08 ppm) to 235 ug/m³ (0.12 ppm) revealed no recorded violations of the new standard in the Eugene-Springfield AQMA. Thus, on March 2, 1979, the State requested that the area be redesignated from "non-attainment" to "attainment." EPA redesignated this area to "attainment/unclassifiable" in the January 10, 1980 Federal Register (45 FR 2044).

c. *Salem—(1) Background.* A single monitor operating in the area since 1975 has revealed a marginal non-attainment problem. No more than three days with violations of the standard have been noted for each of the past four years (1975 through 1978). During this four year period, the highest value recorded was 0.167 ppm (328 ug/m³ versus 0.12 ppm or 235 ug/m³ for the standard), occurring in 1977. The 1977 base year emission inventory shows a total of 8,210 tons of VOC being emitted of which 89 percent are attributed to mobile sources.

Salem's O₃ concentrations appear to be significantly impacted by emissions from Portland, a major urban area located approximately 40 miles north of Salem. Since Salem is technically defined as a "rural" (less than 200,000 population) O₃ non-attainment area and is impacted by emissions from an urban area, EPA's rural O₃ policy may be applied. Rather than requiring a specific control strategy for each rural non-attainment area, this rural policy requires RACT on VOC sources, lowest achievable emission rate (LAER) for new major stationary sources, and an approvable control strategy for major urban areas (Portland). These requirements are met for Salem in the subject Part D SIP revision except as noted in Deficiencies on the VOC rules.

(2) *Emission Reduction Required.* The EPA standard isopleth EKMA model was used and predicted that a 12 percent or 985 tons per year reduction in VOC emissions is needed to reduce base year design concentrations to under the 0.12 ppm standard.

A design value of 0.151 ppm (305 ug/m³) was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy.* Stationary source VOC regulations and the FMVCP are predicted to result in 27 percent or 2243 tons per year reduction by the end of 1982. Since only a 985 tons per year reduction has been shown as being

necessary for attaining the standard, the projected reduction is more than that needed to bring the area into attainment.

(4) *Deficiencies*—a. *Strategy*—The ozone control strategy, as submitted, did not adequately account for the impact of emissions from Portland. However, EPA has recommended that the control strategy identify reliance on the rural O_3 policy. The alternative involves revising the present modeling approach to adequately account for the influence of emissions from sources in Portland.

b. *VOC Rules*—Discussed by source category under "GENERAL REGULATIONS, VOLATILE ORGANIC COMPOUNDS."

(5) *State Response*. The DEQ has submitted a commitment to revise its existing strategy to rely on the rural O_3 policy.

(6) *Final Action*. EPA conditionally approves the O_3 control strategy for Salem provided that the conditions for approval of the VOC rules are met.

d. *Medford-Ashland AQMA*—(1) *Background*. A single monitor installed in 1976 has shown up to seven days with violations of the Federal standard for each of three consecutive years (1976 through 1978). The highest one hour concentration recorded during this period was 0.18 ppm (384 $\mu\text{g}/\text{m}^3$). Base year (1977) emissions inventory figures show a total of 13,100 tons of VOC per year being emitted with approximately 44 percent attributed to motor vehicles.

(2) *Emission Reductions Required*. The EPA approved EKMA model identifies the need for a 13 percent or 1700 tons per year reduction in total VOC emissions in order to meet the Federal standard.

A design value of 0.15 ppm (294 $\mu\text{g}/\text{m}^3$) was used to determine the emission reductions required. This value was derived from measured ambient air quality data.

(3) *Control Strategy*. Modeling efforts predict reductions in VOC emissions between 1977-1982 from the FMVCP, the stationary source VOC rules, and the particulate control strategy will total approximately 2200 tpy. This amounts to a 17 percent decrease, of which 12 percent originates from the FMVCP, four percent from stationary source VOC control, and one percent from special particulate rules. This projected decrease is substantially more than that shown to be needed for attainment.

Although Medford qualified, technically, as a "rural" O_3 non-attainment area (concept discussed under Salem, *Background*), EPA is strongly supportive of the on-going development of a specific attainment strategy for this area. Unlike Salem,

whose O_3 problem appears to be significantly influenced by emissions from Portland, Medford's O_3 concentrations do not appear to be measurably impacted by emissions from a major urban area. Thus, reliance on EPA's rural O_3 policy, as is recommended for Salem, is considered inappropriate for Medford.

(4) *Deficiencies*. VOC Rules—Discussed by source category under "GENERAL REGULATIONS, VOLATILE ORGANIC COMPOUNDS."

(5) *State Response*. Discussed under VOC rules.

(6) *Final Action*. EPA conditionally approves the O_3 control strategy for the Medford-Ashland AQMA provided that the conditions for approval of the VOC rules are met.

4. Total Suspended Particulate (TSP)

Although Portland, Eugene-Springfield, and Medford were designated non-attainment for TSP, no Part D plans are due at this time. This is attributable to (a) recent redesignations of the Medford and Eugene-Springfield areas and (b) 18-month extensions for submittal of secondary standard attainment plans. Extensions until July 1980 for all secondary standard SIPs were formally requested by the State on March 2, 1979, and were granted in the July 30, 1979 *Federal Register* (44 FR 44497) pursuant to 40 CFR 51.31. Further, on January 10, 1980 (45 FR 2044), the Medford TSP designation was changed from non-attainment of secondary standards to non-attainment of primary standards; a new due date of October 10, 1980 was identified for this TSP SIP revision. The Eugene-Springfield TSP designation was changed from non-attainment of primary standards to non-attainment of secondary standards in this same *Federal Register*.

Although no TSP attainment strategies have been submitted, the State has adopted and submitted revised rules for stationary sources of TSP in Medford. EPA is not taking final action on these revised rules in this rulemaking. However, because these rules will serve as the nucleus for the Medford-Ashland TSP attainment strategies which are now being developed by the State, EPA is providing comment on the revised TSP stationary source rules at this time.

a. *Portland*. The Portland portion of the Portland, Oregon—Vancouver, Washington AQMA was designated non-attainment for secondary standards only. Thus, with the above 18-month extension, no plan is due until July 1, 1980 and no EPA action is being taken at this time regarding plan approval.

b. *Eugene-Springfield*. The area was initially designated non-attainment for

both primary and secondary standards. However, only one monitor in the network (Springfield City Shops site) showed non-attainment of the primary standards. The representativeness of data from this monitor had been a subject of controversy for several years. It had been the State's recommendation that data from this monitor should not be considered in making attainment/non-attainment determinations because its location is such that measured TSP levels reflect the air quality of only a very small area surrounding the monitor. Justification provided by the State for discounting this data has recently been accepted by EPA Region 10. A notice of final rulemaking to redesignate the area from non-attainment for primary standards to non-attainment for secondary standards only was published in the *Federal Register* on January 10, 1980 (45 FR 2044); additional details surrounding the redesignation can also be found in that publication. The above redesignation removed the obligation for State submittal of a TSP primary standard attainment plan. The TSP secondary standard attainment plan is due July 1, 1980. Thus, no EPA action is being taken at this time regarding TSP plan approval for the Eugene-Springfield AQMA.

c. *Medford-Ashland*. The Medford-Ashland AQMA was initially designated non-attainment for secondary standards only. However, subsequent TSP data revealed an air quality problem which was found to be much worse than at first recognized; more recent concentrations well above the primary standard have been recorded. As a result, the area was redesignated to non-attainment of primary standards in the January 10, 1980 *Federal Register* (45 FR 2044). Since the redesignation involved changing to a more restrictive classification, EPA has given the State nine months from the date of final action (until October 10, 1980) to submit a primary standard non-attainment strategy; the due date for submittal of a secondary standard attainment plan remains July 1, 1980. Additional details surrounding the redesignation can be found in the January 10, 1980 *Federal Register* notice.

As already stated, EPA is not taking final action in this rulemaking on revised TSP rules for stationary sources which were submitted by the State of Oregon. However, since Oregon submitted these rules as representing at least RACT, and because these rules will serve as the basis for the Medford-Ashland attainment strategies which are now being developed, EPA has reviewed

the subject rules and identified several deficiencies.

Deficiencies: (1) Rule 340-30-035: Specific conditions under which the Director may lift the ban on operation of wigwam waste burners are not provided.

(2) Rules 340-30-015, -030, and -040: Annual averaging times for emission regulations are unacceptable in that they make compliance determinations extremely difficult.

State Response. The DEQ has made the following commitments/arguments regarding the above noted deficiencies:

(1) Specific conditions under which the Director may lift the prohibition or wigwam burner operation will be provided.

(2) Existing visible emission rules can be used for an immediate determination of source compliance for those sources covered by an annual emission regulation.

(3) Existing 40 percent opacity requirements applicable to hogged fuel boilers will be changed to a 20 percent regulation.

(4) The annual average limitations can permit compliance assessments more often than once per year. For two of the three source categories covered by an annual average emission regulation, only one test per year is required to demonstrate compliance. However, if this test result shows a violation of the annual emission regulation, then three additional tests shall be required during the year with no single test result allowed to be more than twice the annual average emission limitation. For one of the three source categories covered by an annual average emission regulation, only one test per year is called for in the source test regulation. However, this test must show compliance or the source is in violation.

EPA will take rulemaking action on the revised TSP rules for stationary sources when the completed TSP attainment plans are submitted. At this time, EPA suggests that these rules be modified so that:

(1) Conditions under which the Director can lift the prohibition on wigwam waste burner operation are identified, and

(2) A visible emission rule that restricts plume opacity to 20 percent or less for hogged fuel boilers with a heat input greater than 35 million BTU/hr is adopted.

EPA feels that the specific provisions of the annual average emission limitations will permit adequate enforcement of those rules.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the

procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

(Sec. 110(a), 172, Clean Air Act (43 U.S.C. 7410(a) and 7502))

Dated: June 16, 1980.

Douglas M. Costle,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows.

Subpart MM—Oregon

1. In § 52.1970, paragraphs (c)(26)–(c)(30) area added as follows:

§ 52.1970 Identification of plan.

(c) * * *

(26) On June 20 and 29, 1979, the Governor submitted: (a) carbon monoxide (CO) and ozone (O₃) attainment plans for the Oregon portion of the Portland-Vancouver AQMA, Salem, and Medford-Ashland AQMA, and (b) a carbon monoxide (CO) attainment plan for the Eugene-Springfield AQMA.

(27) On June 20, 1979, the Governor requested an extension beyond 1982 for the attainment of carbon monoxide (CO) in Portland, Eugene-Springfield and Medford.

(28) On June 29, 1979, the Governor requested an extension beyond 1982 for the attainment of ozone (O₃) in Portland.

(29) On February 14, 1980, the State Department of Environmental Quality submitted its official response to EPA's proposed SIP actions which were published in the *Federal Register* on January 21, 1980 (45 FR 3929).

(30) On May 6, 1980, the State Department of Environmental Quality submitted recodified portions of Oregon

Revised Statutes (ORS) 449 which authorize Oregon's automobile inspection/maintenance program. This submittal, requested by EPA, included chapters ORS 468.360 through 468.420, 481.190, 481.200, 483.800, 483.820, and 483.825.

§ 52.1971 [Amended]

2. Section 52.1971 is amended by changing the heading "photochemical oxidants (hydrocarbons)" to "ozone".

3. Section 52.1972 is amended by adding the following sentences to the existing paragraph:

§ 52.1972 Approval status.

* * * With the exceptions set forth in this subpart, the Administrator approves Oregon's plan for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the carbon monoxide and ozone attainment plans satisfy all requirements of Part D, Title 1, of the Clean Air Act as amended in 1977, except as noted in the following sections.

In addition, continued satisfaction of Part D requirements for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979. Additional RACT requirements must be submitted by each subsequent January for sources covered by CTGs issued by the previous January. Further, new source review permits issued pursuant to Section 173 of the Clean Air Act will not be deemed valid by EPA unless the provisions of Section V of the emission offset interpretive rule published on January 16, 1979 (44 FR 3274) are met.

4. Section 52.1973 is amended by adding a new table as follows:

§ 52.1973 Attainment dates for national standards.

The following table presents required attainment dates for national standards. These dates reflect the information presented in Oregon's plan.

Air quality control region and nonattainment area	Pollutant						
	-TSP-		-SO ₂ -		NO _x	CO	O ₃
	1st*	2nd**	1st*	2nd**			
Portland Interstate AQCR:							
1. Portland-Vancouver AQMA (Or. portion).....	a	f	a	b	b	g	e
2. Salem.....	a	b	a	b	b	e	b
3. Eugene-Springfield AQMA.....	a	f	a	b	b	h	b
4. Remainder of AQCR.....	c	c	a	b	b	d	c
Southwest Oregon Intrastate AQCR:							
1. Medford-Ashland AQMA.....	e	f	a	b	b	g	e
2. Remainder of AQCR.....	c	c	a	b	b	b	b
Northwest Oregon Intrastate AQCR.....							
Central Oregon Intrastate AQCR.....	a	c	a	b	b	b	b
Eastern Oregon Intrastate AQCR.....	e	c	a	b	b	b	b

*1st=Primary.

**2nd=Secondary.

a. Area designated as having air quality levels presently below the primary standards or area is unclassifiable.

b. Area designated as having air quality levels presently below secondary standards or area is unclassifiable.

c. May 1975.

d. May 31, 1976.

e. December 31, 1982.

f. As expeditiously as practicable with date to be identified in plan due to be submitted by July 1, 1980.

g. Later than December 31, 1982 but before December 31, 1987 with specific date to be identified in alternatives analysis due July 1, 1980.

h. December 31, 1985.

5. In § 52.1981, paragraphs (b) and (c) are added as follows:

§ 52.1981 Extensions.

(b) The Administrator hereby extends the attainment date for carbon monoxide in the Eugene-Springfield non-attainment area to December 31, 1985 and in the Portland, and Medford-Ashland non-attainment areas to beyond December 31, 1982, but before December 31, 1987. The actual attainment date for the Portland and Medford-Ashland areas is to be identified in the transportation control plan alternatives analysis for each area, due to be submitted by July 1, 1980. No further analysis is required for the Eugene-Springfield area.

(c) The Administrator hereby extends the attainment date for ozone in the Portland non-attainment area to beyond December 31, 1982 but before December 31, 1987. The actual attainment date is to be submitted by July 1, 1980.

6. Section 52.1982 is added as follows:

§ 52.1982 Control strategy: Ozone.

(a) Part D—*CONDITIONAL APPROVAL*. (1) The Salem area attainment plan is approved as satisfying Part D requirements provided that the State, within six months from the date of this publication, (December 24, 1980) meets the following conditions:

(i) The rules governing VOC sources are made equivalent to reasonably available control technology.

(ii) Approvable source test procedures are submitted by the State.

(iii) Formally adopted compliance schedules are submitted by the State.

(2) The first stages of two-stage attainment plans for the Portland and Medford-Ashland air quality maintenance areas are approved as satisfying Part D requirements provided that the State, within six months from the date of this publication (December 24, 1980), meets the following conditions:

(i) The rules governing VOC sources are made equivalent to reasonably available control technology.

(ii) Approvable source test procedures are submitted by the State.

(iii) Formally adopted compliance schedules are submitted by the State.

7. Section 52.1985 is added as follows:

§ 52.1985 Rules and regulations.

(a) Part D—*CONDITIONAL APPROVAL*.

(1) New Source Review regulations (OAR 340-20-190 through-197) are approved as satisfying Part D requirements provided that the State, within six months from the date of this publication (December 24, 1980), meets the following conditions:

(i) A specific emission offset program with regulations is adopted and submitted.

(ii) The rule governing multiple sources under single ownership be modified so as to require that other sources owned by the company applying for a permit be in compliance "with all applicable emission limitations and standards under the Act."

(2) Regulations for volatile organic compound (VOC) emissions (OAR 340-22-100 through -150) are approved as satisfying Part D requirements provided that the State, within six months from the date of this publication (December 24, 1980), meets the following conditions:

(i) *Gasoline Marketing*. (A) The definition of "delivery vessel" is changed so as to require vapor capture (where previously excluded) in the transfer of gasoline from terminals to bulk plants.

(B) Conflicting vapor capture exemptions between OAR 340-20-110(2)(c) and OAR 340-20-115(5) is eliminated by removing OAR 340-20-110(2)(c) from the rules.

(C) The exemption of delivery vessels and storage tanks at gasoline dispensing facilities from vapor capture requirements, where the source (gasoline dispensing facility) receives 250,000 gallons of gasoline or less per year from a bulk plant, is changed to an exemption of no greater than 10,000 gallons per month.

(D) The vapor capture rules for (1) "Small Storage Tanks" and (2) "Bulk Gasoline Plants and Delivery Vessels" are revised to require vapor-tight capture systems.

(ii) The asphalt rule contains limits, consistent with EPA guidance, on the amount of solvent which is permitted in emulsified asphalts.

(iii) *Surface Coating*. (A) The term "coating line" is defined so as to include the coater, flash-off area, and dryer.

(B) Documentation is provided that the "inert gas process paper coating" rule is in fact reasonably available control technology.

(iv) *Degreasers*. (A) Specific requirements for agitated solvents, heated solvents, and solvents with higher vapor pressures are added to the cold cleaner rule.

(B) Both a powered cover and specific freeboard ratio are required for open top vapor degreasers.

(C) A major control device is required for conveyORIZED degreasers with an air/vapor interface greater than two square meters.

(v) The State submits approvable source test procedures for VOC sources.

(vi) The State submits formally adopted compliance schedules for VOC sources.

(3) Portland's automobile inspection and maintenance program is approved as satisfying Part D requirements provided that the State submits its operating regulations to EPA by July 15, 1980.

(i) Specific conditions are submitted under which the Director may lift the prohibition on wigwag waste burner operation.

(ii) A visible emission rule for hogged fuel boilers that restricts plume opacity to twenty percent (20%) or less is adopted and submitted.

[FR Doc. 80-18812 Filed 6-23-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1523-2]

Ohio; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA proposed on June 12, 1979, 44 FR 33711, to revise the sulfur dioxide (SO₂) emission limitations for Cleveland Electric Illuminating Company's Avon Lake and Eastlake power plants in Ohio from 1.15 and 1.43 lbs. SO₂ per MBTU to 6.09 and 6.58 lbs. SO₂ per MBTU, respectively. After

consideration of public comments and new EPA modeling analyses, EPA is taking final action to revise the emission limitations to 4.10 or 4.65 lbs. SO₂ per MBTU for Avon Lake, depending on the sulfur content of oil burned at the plant, and 5.64 lbs. SO₂ per MBTU for Eastlake. These limits are based on the plants' current stack configuration with good engineering practice formula credit given for the plants recently-constructed tall stacks. However, EPA is today announcing a revision to its stack height policy. Under the revised policy, sources seeking credit for raising existing stacks will be required to provide a fluid modeling or field study demonstration that the stack height increase is necessary to avoid excessive concentrations due to downwash, wakes and eddies. Since this is a change in policy, CEI is being given time to perform the necessary studies demonstrating what stack height credit is appropriate. If EPA accepts the study results, EPA will propose within a year alternative emission limits based on the demonstration. If CEI fails to submit acceptable studies in time to enable EPA to propose new limits within a year, emission limitations based on the plants' stack configuration prior to construction of the new stacks will become effective one year from today. Those limits, which are also being promulgated today, are 3.43 or 3.93 lbs. SO₂ per MBTU for Avon Lake, depending on the sulfur content of oil burned at the plant, and 3.04 lbs. SO₂ per MBTU for Eastlake.

EFFECTIVE DATE: This action is effective on June 24, 1980. For additional information see "Supplementary Information".

ADDRESS: The docket for this final rule, No. 5A-79-1, is available for inspection at EPA's Region V, 230 South Dearborn Street, Chicago, Illinois, and at the Public Information Reference Unit, Room 2922, United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected during normal business hours.

FOR FURTHER INFORMATION CONTACT: Steve Rothblatt, Chief, Air Programs Branch, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6030.

SUPPLEMENTARY INFORMATION: On June 12, 1979, EPA proposed to revise the emission limitations applicable to the Avon Lake and Eastlake power plants owned by the Cleveland Electric Illuminating Company (CEI). See 44 FR 33711. EPA proposed to change the emission limitations from 1.15 to 6.09

lbs. sulfur dioxide (SO₂) per million BTU for the Avon Lake plant and from 1.43 to 6.58 lbs. SO₂ per million BTU for the Eastlake plant. As discussed in the proposal, the new emission limitations proposed on June 12, 1979, reflected the emission levels of the plants at that time.

EPA proposed the revisions based on its conclusion that the urban RAM model, which had been used to calculate the existing emission limitations, was inappropriate for use in the areas where the plants are located. EPA, however, rejected the rural RAM model proposed by CEI, because that model, like the urban RAM model, does not account for meteorological conditions due to lake shore fumigation. Since EPA believed that lake shore fumigation from Lake Erie could result in higher ambient concentrations than concentrations predicted by the rural RAM model, EPA concluded it could not set limitations based on that model.

In the absence of an appropriate model, EPA proposed to allow the plants to continue operating at status quo levels. Based in part on monitoring data submitted by CEI and on the construction of new taller stacks for the plants, EPA concluded that status quo levels would reasonably assure attainment and maintenance of the ambient standards. In addition, EPA proposed that CEI conduct a monitoring study to gather more data on meteorological conditions and ambient concentrations at the plants. The data could also be used in developing an analytical tool to calculate impacts from shoreline fumigation in similar situations.

Due to requests for an extension of the comment period, the Agency could not complete final action on the proposed revisions before the plants' October 19, 1979, compliance date. The Agency therefore suspended the plants' compliance date until no later than the plan attainment date of June 17, 1980. See 45 FR 1022 (January 4, 1980). The Commonwealth of Pennsylvania, joined by several Northeastern states, and an environmental group filed petitions for review of EPA's compliance date suspension in the U.S. Court of Appeals for the Sixth Circuit (Nos. 80-3147 and 80-3148). Certain court papers filed by the Agency have been included in the rulemaking docket.

From July to October 1979, EPA Region V's technical staff designed the monitoring network for the CEI plants. The staff used the MPTER model, a rural multi-source model, as one tool in that process. The model was used to calculate the likely maximum impacts under non-lake-induced meteorological

conditions. The modeling results raised some questions about the adequacy of the proposed status quo emission limitations to protect ambient standards. In February 1980, EPA published for comment the monitoring plan it had developed for the plants. See 45 FR 11855, February 22, 1980. The Notice discussed the implications of the MPTER modeling results and solicited public comment on the analyses.

The Agency received numerous and extensive comments on the June 1979 proposal notice and the February 1980 monitoring notice. Several commenters questioned EPA's initial conclusion that status quo limitations would insure protection of the ambient standards. EPA's response to these comments is discussed below. The comments also questioned whether the new taller stack at each plant reflects good engineering practice height, whether CEI's monitoring data is reliable, and whether EPA considered the effects of the proposed revision on acid rain, sulfate formation and long-range pollutant transport. EPA's detailed responses to these comments is contained in a separate document in the rulemaking docket and is available on request.

In light of the substantial questions raised by the commenters and by EPA's MPTER modeling work as to whether status quo emissions would protect ambient standards, EPA undertook further modeling analyses of the plants. EPA used its single source reference model, the CRSTER model, to conduct the analyses. The CRSTER model is discussed in EPA's *Guidelines on Air Quality Models* as the benchmark model for non-urban areas. See *Guideline on Air Quality Models*, EPA-450/2-78-027, OAQPS No. 1.2-080, April 1978. Prior to June 1979 EPA guidance permitted use of either the CRSTER model or the RAM rural model for single sources in non-urban areas. Since the models often produced inconsistent results for similar sources, EPA determined to recommend one model for use by its Regional Office. In June 1979 EPA instructed its Regional Offices to use modeling parameters consistent with the CRSTER model in modeling non-urban areas, unless other techniques were shown on a case-by-case basis to provide more appropriate and accurate results. EPA's conclusion was based on its judgment that the CRSTER model was intended to be the benchmark model for isolated sources in non-urban areas, on its belief that the rural RAM model would not produce more accurate results, and on the need for additional technical support for improvements made in the RAM rural model.

EPA also concluded that the CRSTER model should be used in preference to the MPTER multi-source model used by Region V to establish the monitoring network. A review of MPTER modeling data for the plants indicates that the plants' emissions are of overwhelming significance when compared to other sources in the vicinity of the plants. The single source CRSTER model is therefore more appropriate for modeling these plants than the multi-source MPTER model which is designed to model multiple sources of comparable significance. EPA therefore determined that the CRSTER model, rather than the rural RAM or MPTER model, should be used in its reevaluation of the CEI plants.

EPA modeled the plants at their status quo emission levels using five years of meteorological data, two sets of stack heights, and two patterns of oil use at Avon Lake. (Avon Lake has eight oil-fired peaking units and 4 coal-fired units.) Meteorological data from the Cleveland Hopkins Airport for the years 1973 to 1977 was used. The plants were modeled using current stack configurations and giving each plant credit for its new tall stack based on EPA's good engineering practice (GEP) height formula.* See EPA's Proposed Stack Height Regulations, 44 FR 2608, January 12, 1979. The plants were also modeled using the stack configurations prior to construction of the new tall stacks. In both cases, the Avon Lake plant was given full stack height credit for its old tall stack, since that stack was completed prior to December 31, 1970, and was therefore not subject to Section 123 or EPA's proposed stack height regulations. (Section 123, the stack height provision of the Clean Air Act, exempts from coverage stack heights in existence prior to December 31, 1970.) In both cases, the Eastlake plant was limited to GEP formula credit for its old tall stack since construction on that stack was completed after December 31, 1970. For each stack height case, the Avon Lake plant was modeled assuming, first, use of 1% sulfur content oil and second, use of 0.3% sulfur content oil.

The modeling based on current stack configurations with GEP credit showed that status quo limits would cause violations of the three-hour secondary

SO₂ standard under Class A stability conditions. For this case, the emission limitations necessary to prevent standard violations were calculated for Avon Lake to be 4.10 lbs. SO₂ per MBTU if the oil-fired units burn 1% sulfur oil and 4.65 lbs. SO₂ per MBTU if the oil-fired units burn 0.3% sulfur oil. For Eastlake, the limitation necessary to protect standards was calculated to be 5.64 lbs. SO₂ per MBTU. Modeling based on stack configurations prior to construction of the new tall stacks at both plants, with GEP credit for the old tall stack at Eastlake, showed that lower emission limitations are necessary to protect standards. At Avon Lake, the necessary emission limitations would be 3.43 lbs. SO₂ per MBTU if the oil-fired units burn 1% sulfur oil and 3.93 lbs. SO₂ per MBTU if the units burn 0.3% sulfur oil. At Eastlake, the limitation would be 3.04 lbs. SO₂ per MBTU. For reasons discussed below, EPA is today promulgating both sets of emission limitations. The limitations based on the new tall stacks with GEP credit will remain effective for one year. At the end of the year, the emission limitations based on stack configurations prior to construction of the new stacks will become effective, unless CEI demonstrates through fluid modeling or a field study the amount of stack height credit appropriate for the new stacks and EPA proposes alternative emission limitations within the year. If EPA proposes alternative limitations, the first set of limitations will remain in effect until EPA takes final action on the proposed alternative limits.

Stack Height: EPA's proposed stack height regulations allow the Administrator discretion to credit stack height increases at existing sources based on a good engineering practice (GEP) formula, or to require such sources to justify the use of the formula by demonstrating through fluid modeling or a field study the existence of an air quality problem due to downwash, wakes or eddies. See 44 FR 2610, col. 2, January 12, 1979. Over the past year, EPA has become increasingly concerned that current atmospheric loadings of SO₂ and other pollutants are resulting in significant regional air pollution problems, particularly acid rain. Preliminary evidence indicates that acid deposition can destroy fish life in sensitive aquatic environments and cause leaching of toxic substances from soil. See e.g., "The LRTAP [Long Range Transboundary Air Pollution] Problem in North America: a preliminary overview." (Available in the docket.) Since publication of EPA's proposal, several sources have requested

relaxations of SO₂ emission limitations in connection with stack height increases up to the height permitted by the GEP formula. EPA is concerned that allowing sources automatic credit for GEP formula height is improperly encouraging emission limit relaxations and SO₂ emission increases that aggravate the acid rain problem.

EPA's proposed regulation on stack height increases was based on its interpretation of Section 123 and Congress' intent as evidenced in the legislative history. At the time of its stack height proposal EPA favored the use of the GEP formula to reduce the requirement for additional analyses which would be associated with case-by-case reviews of proposed stack height increases. EPA has recently reviewed both the statute and legislative history in light of its mounting concern that stack height increases may contribute to acid rain. EPA has also considered public comments on its stack height proposal, some of which argue that no credit for stack height increases should be permitted without a demonstration of need based on fluid modeling or a field study. As a result of the review, EPA has determined to change its policy on stack height increases at existing sources.

Section 123 prohibits stack height credit for that portion of a stack which exceeds good engineering practice (GEP) height. The Administrator is granted discretion to determine what constitutes good engineering practice height, based on two statutory directives. First, the statute provides that GEP height is to be the height necessary to prevent excessive concentrations due to downwash, wakes or eddies created by the source, nearby structures, or nearby terrain, as determined by the Administrator. Second, GEP is not to exceed two and a half times the height of the source unless the source demonstrates, to the Administrator's satisfaction, that a greater height constitutes GEP. The statute therefore establishes a maximum GEP height for most sources and leaves to the Administrator's discretion what height under two and a half times the height of a source constitutes GEP.

While the legislative history offers no explicit guidance on how the Administrator is to exercise his discretion, it indicates clear Congressional intent to minimize atmospheric dispersion of pollutants through use of tall stacks. The House Committee Report notes that tall stacks do not significantly reduce total emissions of sulfur oxides, and therefore do not decrease total loadings of

*The modeling based on current stack configurations assumes full use of the recently-constructed tall stacks at both plants. At present, the new stack at Avon Lake is fully operational. At Eastlake, two of four boilers planned to vent through the new stack are venting through it at this time. A third boiler is to be connected in September and the fourth boiler is to be connected by January 1981.

sulfates and other sulfur compounds, despite causing a reduction in local ambient concentrations; that increases in sulfates contribute to acid rain; that increases in sulfates are associated with increases in sulfur oxide emissions through tall stacks; and that use of tall stacks results in long-range pollutant transport. See H.R. Rep. No. 95-294, 95th Cong. 1st Sess. 83-86 (1977). The House Committee Report provides the most detailed legislative guidance on stack heights, since the House Committee developed the proposals on dispersion techniques that were adopted by the full Congress. In Section 123, Congress responded to its concern with total loadings by restricting use of tall stacks to meet ambient standards.

In view of Congress' intent to limit stack height credit as a means of reducing total emission loadings, and EPA's concern that use of its GEP formula for stack height increases is increasing pollutant loadings and acid rain, EPA has concluded that an existing source increasing its stack height should not automatically receive credit for the increase on the basis of the GEP formula. In the future, any source seeking to raise its stack above the de minimis level defined in EPA guidance will be required to conduct a fluid modeling study or field study to demonstrate the GEP height necessary to avoid excessive concentrations due to downwash, wakes and eddies. EPA believes that the potential severity of the acid rain problem requires the Agency to conduct the additional analyses associated with case-by-case review of proposed stack height increases.

In view of this policy change, CEI, and all other applicants for stack height increases, will be required to provide fluid modeling or field study demonstrations of what constitutes GEP stack height. Because CEI had no prior notice of this policy revision, the company will have one year to conduct the necessary fluid modeling or field studies for the Avon Lake and Eastlake plants. During that time, the emissions limitations based on GEP formula credit for the new tall stacks, which are being promulgated today, will be in effect. If the required demonstrations are submitted within nine months, which will give EPA time to review the submittal and propose alternative emission limitations within a year, the emission limitations based on GEP formula credit for the new stacks will remain in effect until EPA takes final action on the proposed alternative limits. If no acceptable demonstrations are provided in time and EPA does not

propose alternative limits, the lower emission limitations promulgated today will become effective one year from today.

Lake Shore Fumigation: As stated in the June 1979 proposal notice, EPA is concerned that lake shore fumigation will cause higher ambient concentrations than those due to the meteorological conditions accounted for by existing models. The CRSTER model, like the rural RAM and urban RAM models, does not account for lake shore effects. Because of its concern that lake shore fumigation could cause standard violations that would not be predicted by the CRSTER model, EPA determined to use the best available techniques to calculate concentrations associated with lake shore fumigation. First, meteorological data was screened to determine the three-hour periods most likely to cause maximum concentrations due to shoreline fumigation. These periods were then analyzed using state-of-the-art techniques to determine fumigation concentrations. Third, the concentrations predicted for maximum fumigation conditions were then compared to high concentrations predicted by CRSTER. The comparison indicates that concentrations associated with lake shore fumigation in most cases would not be higher than high concentrations calculated by CRSTER for Class A stability conditions. The analysis suggests that lake shore fumigation could be controlling in certain circumstances, however, EPA does not have sufficient information available at this time to reach that conclusion. Consequently, EPA believes that the emission limitations based on the CRSTER modeling will be adequate to insure attainment and maintenance of the ambient standards until such time as additional information is available on the effects of lake shore fumigation. A detailed discussion of the CRSTER modeling and the lake shore fumigation analysis is available in the docket. The document is entitled "Summary Report on Modeling for the Avon Lake and Eastlake Plants."

Class A Stability: As noted, the controlling meteorological conditions for establishing emission limitations for the plants was stability Class A. In response to a remand order from the U.S. Court of Appeals for the Sixth Circuit, EPA has reconsidered the technical justification for use of Class A dispersion coefficients. In February 1979, EPA proposed to continue use of Class A coefficients in air quality modeling. See 44 FR 7798 (February 7, 1979). On June 16, 1980, EPA responded to comments on its proposal and issued its final

determination to continue use of Class A coefficients. In view of EPA's decision to retain Class A and the fact that Class A is the controlling meteorological condition for the two plants, the Agency believes it is appropriate to use Class A results in setting emission limitations for the two plants.

The emission limitations based on the current stack configurations (4.10 and 4.65 lbs. SO₂ for Avon Lake and 5.64 lbs. SO₂ for Eastlake) are effective today and will remain in effect for one year. The alternative emission limitations (3.43 and 3.93 lbs. SO₂ for Avon Lake and 3.04 lbs. SO₂ for Eastlake) will become effective at the expiration of the year, unless EPA proposes within a year emission limitations based on a fluid modeling study or field study submitted by CEI which demonstrates the amount of stack height credit appropriate for the new tall stacks. To give EPA time to review the demonstration and propose alternative limits, EPA encourages CEI to submit the fluid modeling or field study demonstration within nine months of today. If EPA proposes alternative emission limitations based on the CEI submittal, the emission limitations that are effective today will remain in effect until EPA takes final action on the proposed alternative limitations. While the regulation is immediately effective, EPA recognizes that the utility may require up to sixty days to arrange any necessary changes in its coal supplies. EPA will therefore refrain from taking any enforcement action against the plants during the sixty-day period following the effective date of these regulations.

This action is effective on the date of publication because these emission limitations replace more stringent emission limitations that became effective on June 17, 1980, the final compliance date for the plants and the attainment date for the Ohio SO₂ plan. Since EPA has concluded that the more stringent emission limitations are lower than necessary to meet the national ambient standards, EPA believes it is appropriate to immediately replace the excessively stringent limits with the emission limitations promulgated today.

Under Executive Order 12044 (43 FR 12661), EPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations, "specialized". I have reviewed this proposed regulation pursuant to the guidance in EPA's response to Executive Order 12044, "Improving Environmental Regulations,"

signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110 and 123 of the Clean Air Act, as amended, [42 U.S.C. 7410 and 7423])

Dated: June 17, 1980.

Barbara Blum,

Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. Section 52.1881 is amended by revising paragraph (b)(35)(vi) and (vii), and (b)(38)(iii) and (iv) as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

(35) In Lake County * * *

(vi) The Cleveland Electric Illuminating Co. or any subsequent owner or operator of the Eastlake Plant in Lake County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Eastlake Plant in excess of 5.64 pounds of sulfur dioxide per million Btu actual heat input from the effective date of these regulations until one year from that date or until the date provided in the last sentence of (35)(vii), whichever is later.

(vii) The Cleveland Electric Illuminating Co. or any subsequent owner or operator of the Eastlake Plant in Lake County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Eastlake Plant in excess of 3.04 pounds of sulfur dioxide per million Btu actual heat input from the date that is one year after the effective date of these regulations unless the Administrator shall have proposed in the Federal Register emission limitations based on a fluid modeling or field study demonstration submitted by the owner or operator which demonstrates the stack height necessary to avoid excessive concentration due to downwash, wakes or eddies caused by the source, nearby structures or nearby terrain obstacles. In the event the Administrator proposes alternative emission limitations based on the demonstration described in this subparagraph the emission limit contained in subparagraph (35)(vi) shall remain in effect, until the Administrator takes final action on the proposed limits.

(38) In Lorain County * * *

(iii) The Cleveland Electric

Illuminating Co., or any owner or operator of the Avon Lake Plant in Lorain County, Ohio, shall not cause or permit the emission of sulfur dioxide in pounds per million Btu actual heat input from any stack at the Avon Lake Plant in excess of the rates specified in one of the following alternatives from the effective date of these regulations until one year from that date or until the date provided in the last sentence of (38)(iv), whichever is later:

Alternative 1

Stack No., Boiler identification, and Emission limit

1—1,2—1.06
2—3,4—1.06
3—5,6—1.06
4—7,8—1.06
5—9—4.10
6—10—4.10
7—11—4.10
8—12—4.10

Alternative 2

Stack No., Boiler identification, and Emission limit

1—1,2—0.32
2—3,4—0.32
3—5,6—0.32
4—7,8—0.32
5—9—4.65
6—10—4.65
7—11—4.65
8—12—4.65

(iv) The Cleveland Electric

Illuminating Co., or any subsequent owner or operator of the Avon Lake Plant in Lorain County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack of the Avon Lake Plant in pounds per million Btu actual heat input in excess of the rates specified in one of the following alternatives from the date that is one year after the effective date of these regulations unless the Administrator shall have proposed in the Federal Register emission limitations based on a fluid modeling or field study demonstration submitted by the owner or operator which demonstrates the stack height necessary to avoid excessive concentrations due to downwash, wakes or eddies caused by the source, nearby structures or nearby terrain obstacles. In the event the Administrator proposed alternative emission limitations based on the demonstration described in this subparagraph the emission limitation contained in subparagraph (38)(iii) shall remain in effect until the Administrator takes final action on the proposed limits.

Alternative 1

Stack No., Boiler identification, and Emission limit

1—1,2—1.06
2—3,4—1.06
3—5,6—1.06
4—7,8—1.06
5—9—3.43
6—10—3.43
7—11—3.43
8—12—3.43

Alternative 2

Stack No., Boiler identification, and Emission limit

1—1,2—0.32
2—3,4—0.32
3—5,6—0.32
4—7,8—0.32
5—9—3.93
6—10—3.93
7—11—3.93
8—12—3.93

[FR Doc. 80-19039 Filed 6-23-80; 8:45 am]
BILLING CODE 6580-01-M

40 CFR Parts 52 and 81

[FRL 1523-6]

Approval and Promulgation of State Implementation Plans; Designation of Areas for Air Quality Planning Purposes

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rulemaking; Correction.

SUMMARY: On January 30, 1980 at 45 FR 6786 the U.S. Environmental Protection Agency (USEPA) published a Notice of Final Rulemaking. The notice contained charts on page 6788. The chart entitled "Illinois SO₂" contained the wrong designation for Massac County located in Air Quality Control Region 72 (AQCR 72). The correct designation is "Cannot be Classified". On February 21, 1980 at 45 FR 11472 USEPA published a Notice of Final Rulemaking which contained an incorrect statement. That notice on page 11481 indicated that the Illinois State Implementation Plan includes a provision which exempts methylene chloride from control. Illinois removed that exemption from its finally adopted regulations.

FOR FURTHER INFORMATION CONTACT: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 886-6029.

SUPPLEMENTARY INFORMATION: In a Notice of Final Rulemaking at 45 FR 6786 (January 30, 1980) USEPA codified the section 107 Attainment Status Designations which Illinois had