

**SCHEDULE C—CONTRACT RENT
ANNUAL ADJUSTMENT FACTORS—
AREA DEFINITIONS**

NEVADA (HUD REGION IX)

METROPOLITAN COUNTIES

Clark, Nye, Washoe

NONMETROPOLITAN COUNTIES

Churchill, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Pershing, Storey, White Pine, Carson City

Dated: September 15, 1994.

Brenda Gladden,

Acting Assistant, General Counsel for Regulations.

[FR Doc. 94-23302 Filed 9-20-94; 8:45 am]

BILLING CODE 4210-32-P

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 52

[OH53-2-6360; FRL-5076-1]

**Approval and Promulgation of
Implementation Plans; Ohio**

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On August 20, 1993, in response to requirements in part D of title I of the Clean Air Act, the Ohio Environmental Protection Agency (OEPA) submitted materials to USEPA pertaining to new source review (NSR) in nonattainment areas. This submittal included no revisions to any Ohio regulations. Instead, the submittal relied on existing pre-1990 NSR rules, described how Ohio intended to implement various applicable part D requirements, and presented a rationale that no revisions to State regulations would be necessary to satisfy these requirements. USEPA disagrees with this rationale and disapproves the State's submittal for failure to satisfy applicable requirements, as proposed on March 4, 1994.

EFFECTIVE DATE: This final rule becomes effective on October 21, 1994.

ADDRESSES: Copies of the SIP revision request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone John Summerhays at (312) 886-6067 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Air Enforcement Branch, Regulation Development Section (AE-17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6067.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 172, 173, 182, 189, and other sections of the Clean Air Act require States to submit implementation plan provisions for new source review in nonattainment areas to USEPA for approval or disapproval. Ohio provided various materials to USEPA between November 1992 and April 1993, but USEPA notified the State on June 1, 1993, that these materials did not constitute a complete submittal and that the State had failed to submit a complete submittal. On August 20, 1993, the Ohio provided new material to USEPA addressing new source review in nonattainment areas. USEPA notified OEPA on October 22, 1993, that it found this August 1993 submittal complete.

USEPA published a notice of proposed rulemaking on the State's submittal on March 4, 1994 (59 FR 10349). This document summarized the history of new source review plans in Ohio, reviewed the submittal of August 20, 1993, and proposed disapproval of the submittal. In a cover letter accompanying the submittal, the OEPA Director stated that Ohio's NSR rules adopted in 1974 were sufficient for USEPA to find the State's submission both complete and approvable. According to the OEPA Director, "Ohio EPA believes that the current, federally approved, Ohio SIP is adequate for fulfilling the requirements of a NSR SIP, and that no changes are necessary. . . . Ohio EPA has thoroughly evaluated the basis for this submittal, and has resolved that the 1974 [NSR] rules remain the vehicle for the U.S. EPA to review as part of this NSR SIP submittal." OEPA also submitted a document dated October 1992 entitled "Requirements for Major New Sources in Nonattainment Areas" (referenced in this document as "Ohio's statement of permitting criteria"). On page 4 of this latter document, the State again states that "Ohio EPA needs not modify the current rules to conform to the legislatively mandated changes under the CAA. In fact, the current state law and Ohio EPA requires that the Director account for these new requirements in the review of new source applications." Ohio thus seeks approval of its existing pre-1990 NSR rules, along with its statement of permitting criteria, as satisfying the NSR SIP submittal

requirements of part D of title I of the Act, including the new requirements imposed by the Clean Air Act Amendments of 1990 (1990 Amendments).

Based on a review of the submittal, USEPA proposed that Ohio's submittal failed to satisfy the NSR SIP submittal requirements of part D, both for requirements predating the 1990 Amendments as well as new requirements imposed by the 1990 Amendments. Concerning requirements predating the 1990 Amendments, USEPA explained that the State had failed to make any of the necessary changes to its NSR rules since USEPA's prior action on September 8, 1993 (58 FR 47211) in which USEPA concluded that the State had not satisfied the requirements of part D, even as required before 1990, particularly because of exemptions from NSR permitting for temporary sources and resource recovery facilities. Regarding requirements imposed by the 1990 Amendments, USEPA noted that Ohio's statement of permitting criteria "was not adopted according to the full procedures in Ohio for adoption of regulations, even though this statement is intended to serve purposes normally served by regulations." In an extensive discussion, USEPA also concluded that "the statement of permitting criteria lacks the specificity, the regulatory standing, and the assurance of being enforceable that are needed to satisfy Clean Air Act requirements" and that the State's reliance "on a general regulatory provision (requiring compliance with the Clean Air Act)" fails to authorize the State to impose the necessary "specific, detailed permit conditions." Therefore, USEPA proposed to disapprove Ohio's submittal.

II. Comments on Proposed Rulemaking

Subsequent to the proposed rulemaking, Ohio requested an extension of the public comment period, which USEPA granted on May 3, 1994 (59 FR 22776). During the extended comment period, comments were received from OEPA, the local air pollution control agency for the Dayton area, a law firm, and the State Chamber of Commerce. The following summarizes the comments received and USEPA's responses.

Comment: All four commenters disputed USEPA's proposed conclusion that Ohio's 1974 regulations and its statement of permitting criteria do not adequately specify applicable new source review requirements. The Chamber of Commerce stated that

Ohio's submittal has the same specificity as Federal law, the law is sufficiently specific and clear, and Ohio's submittal meets all requirements of that law. The State commented that the Clean Air Act Amendments of 1990 are very specific and clearly specify applicable requirements, such that further efforts to define these requirements by regulation would be redundant and unnecessary. Another commenter stated that "specificity and clarity of criteria" are not an appropriate basis for disapproving a submittal which has the same specificity and clarity of criteria as the relevant Federal law, and the fourth commenter stated that "[d]isagreement over [the form that Ohio's permitting mandates take rather than over the substance of those mandates] should not be a basis on which to disapprove Ohio's NSR program."

Response: As stated in the proposed disapproval, Ohio's statement of permitting criteria was not adopted pursuant to the applicable Ohio procedures for the adoption of binding, enforceable regulations and did not clearly identify detailed decisionmaking criteria, and therefore "lacks the specificity, the regulatory standing, and the assurance of being enforceable that are needed to satisfy the Clean Air Act requirements." A fundamental principle for SIPs is that SIP measures must be enforceable. See 57 FR 13498, 13568 (April 16, 1992). In its comments, OEPA did not dispute USEPA's conclusion that Ohio's statement of permitting criteria does not constitute binding regulations and is unenforceable. Instead, the State merely responded that "[t]he requirements of the CAAA are clearly enforceable via existing Ohio regulations" (emphasis added). Ohio's response makes it clear that its statement of permitting criteria is not enforceable and that Ohio seeks approval of its submission based on its existing pre-1990 NSR rules. Accordingly, USEPA concludes that it cannot rely on the unenforceable statement of permitting criteria to approve Ohio's submittal.

USEPA also evaluated whether Ohio's existing NSR rules, adopted well before the 1990 Amendments, satisfy current NSR SIP requirements. As the State conceded in its statement of permitting criteria, several applicable sections of the amended Act, including sections 182(a)(2)(C) and 189(a)(2)(A), required states to submit revisions to their State Implementation Plans for nonattainment NSR permits by various dates in 1992 and 1993. As described above, the State contends that its existing pre-1990 NSR rules are sufficient to meet current

requirements because they require adherence to "applicable law," including the Clean Air Act. Thus, instead of submitting revisions to its rules, Ohio asserted that no such revisions are necessary. USEPA disagrees. It should be self-evident that Ohio's reliance on its existing pre-1990 NSR rules does not satisfy the statutory mandates enacted in 1990 for revisions to the State's NSR rules. USEPA reaffirms its view that a reference in existing state rules to the Clean Air Act, and references to pre-1990 sections of the Act, do not satisfy current NSR SIP requirements.

USEPA believes that the Act requires States to adopt specific, enforceable rules to implement the Act's requirements for a nonattainment new source review program. Although not mandated by the Act, USEPA has already provided general guidance to states concerning NSR SIP requirements (See 57 FR 13498, 13552-13556 (April 16, 1992); 57 FR 55620, 55623-55624 (Nov. 25, 1992)), and plans to issue further guidance and rules concerning NSR SIP measures later in 1994. Although certain provisions in the Act may present questions of statutory interpretation, USEPA finds that Ohio's NSR submission, consisting primarily of existing pre-1990 NSR rules supplemented by the unenforceable statement of permitting criteria completely fail to satisfy the statutory obligation to submit specific revisions to its NSR SIP rules.¹

This regulatory situation is typical. Statutes usually establish general requirements and usually cannot be successfully implemented without detailed regulations clearly specifying criteria for evaluating individual cases. Thus, the issue is not simply philosophical or superficial, but rather a fundamental question of whether Ohio has properly set forth a regulatory framework under which to implement the mandated provisions, and whether USEPA or a member of the public could successfully object if a permit were proposed that would violate NSR requirements.

USEPA believes that it would be difficult and impractical for a commenter to object to a proposed permit based on statutory provisions in the amended Act where USEPA had

approved the SIP as satisfying the requirements of the amended Act but where the SIP did not contain specific provisions to implement the amended Act. USEPA further believes that Federal enforcement of NSR requirements would be severely jeopardized by USEPA approval of NSR SIP provisions that fail to contain specific provisions implementing the amended Act. Ohio's SIP submission fails to provide enforceable NSR provisions which assure compliance with the amended Act and therefore are disapproved.

A discussion of comments and responses below addresses specific requirements for offsets, offset ratios, and major source and major modification definitions. The technical support document for the proposed rulemaking also identified deficiencies with respect to the alternatives analysis requirement, and observed that Ohio's statement of permitting criteria mistakenly assigns various USEPA responsibilities regarding clean coal technology demonstration projects to OEPA, such as promulgation of national regulations and review of other States' submittals. No comments were submitted on these latter deficiencies, and so they remain as additional examples of Ohio's submittal being inadequate to implement the mandated requirements.

Comment: The State further commented regarding emissions offsets that "[t]hese requirements are all contained and specified in either Federal rules, the Clean Air Act Amendments of 1990 or in Ohio EPA policy."

Response: As discussed above, Ohio's existing NSR rules do not contain (either directly or by reference) a definition of offset ratios reflecting the amended Clean Air Act. Ohio observes that the Clean Air Act identifies the values of the ratios to be used in various circumstances. However, Ohio does not address the concern identified in the NPR with the absence (in either the existing NSR rules or Ohio's statement of permitting criteria) of detailed, explicit criteria for evaluating offset ratios. Relevant criteria include whether fugitive or secondary emissions (with or without mobile source emissions) are to be included in computing the ratio, what averaging time to use, whether the numerator or denominator is to be potential to emit or actual emissions, and where the offsets may occur. Since these criteria are not explicit or implicit elements of Ohio's rules, it would be difficult and impractical to implement the mandated offset ratios effectively and consistent with the Clean Air Act.

¹ E.g., lowered major source thresholds, provisions governing NOx as an ozone precursor in ozone nonattainment areas, specific mandated offset ratios and other provisions governing emission offsets, a provision that emission reductions otherwise required by the Act are not creditable to satisfy NSR offset requirements, and an alternatives analysis requirement for all nonattainment NSR permits.

Comment: The State agrees that "Appendix S is not explicit in requiring annual, actual offsets," but observes that this requirement has been established by OEPA policy and is given in Ohio's submitted statement of permitting criteria.

Response: USEPA acknowledges that OEPA interprets its regulation to require annual, actual offsets. However, this requirement should be given full regulatory standing by being incorporated into enforceable Ohio regulations.

Comment: The State asserts that it has properly relied on definitions which are given in appendix S to 40 CFR part 51.

Response: The definitions in appendix S are insufficient because of differences between appendix S and the amended Clean Air Act. Appendix S defines major stationary sources as sources with the potential to emit 100 tons per year (or sources modified such that potential to emit increases by 100 tons per year). The Clean Air Act provides that the term "major stationary source" in some areas includes sources with lower potential to emit, such as 50 tons per year in Serious ozone nonattainment areas. See section 182 of the Act. Since Ohio's regulations reference both the Clean Air Act and appendix S, Ohio's regulations are unclear as to which cutoffs apply.

Comment: The State commented on USEPA's uncertainty as to whether the State intended in its statement of permitting criteria to lower the threshold of nitrogen oxides (NO_x) source sizes at which major modifications would trigger new source review. The State commented it "does not intend to change this threshold."

Response: Notwithstanding its recent comments, the State did not change its statement of permitting criteria. Thus, Ohio's submittal contains a statement of permitting criteria that contradicts the criteria for major NO_x modifications given by reference (i.e. in appendix S) in Ohio's regulations.

Comment: Three commenters commented that requiring new State regulations every time Federal rules change would cause delays and reduce the adaptability of the new source review process.

Response: With respect to the requirements of the 1990 Amendments, this rulemaking does not concern whether hypothetical Federal rule changes would require State rule revisions but rather whether the 1990 Amendments require State rule revisions. The Clean Air Act has had significant amendments only twice since 1970, whereas Ohio has changed its Permit to Install (NSR) rules eight

times during the same period. The commenters seek an approach that allows one set of State rules to impose changing requirements in accordance with changes in Federal mandates, but such approaches are prone to be too vague as to the precise obligations of regulated entities imposed by the rules and statute. In this particular case, the State's reference to the general mandates in the amended Clean Air Act does not provide sufficient specificity on the implementation of these mandates to be enforceable. In any event, Congress clearly provided for States to revise their SIP rules in accordance with the 1990 Amendments.

These comments raise a further issue, namely the extent to which a State may change permitting requirements without providing opportunity for public input by means of a rule revision process. Ohio argues that the State's regulations provide for the applicability of requirements resulting from subsequent Clean Air Act amendments even without revision of the State rules. Under this view, there would be no reason for any State SIP submittal at all, and therefore no opportunity for public review and comment on the changed requirements. This runs counter to the general principle that regulations are to be interpreted based on requirements contemplated at the time of regulation adoption and not on the basis of subsequently devised criteria. For this reason as well, the State and USEPA would face obstacles in trying to enforce the requirements of the Clean Air Act Amendments of 1990.

Comment: The State comments "U.S. EPA had expressed a concern about certain items that were identified in the Clean Air Act as part of the review of new sources which were not identified in either state or Federal rules. Ohio EPA proposed a policy that includes these additional Federal requirements. The policy was issued in proposed format and a public hearing was held on the document. After a review of the comments, Ohio EPA submitted that policy as part of the State Implementation Plan."

Response: The State implicitly agrees that certain requirements in the Clean Air Act are not addressed by any rules contained or referenced in the State's SIP, which suggests further that these requirements have not been given regulatory standing in Ohio. The notice of proposed rulemaking focussed on Ohio's statement of permitting criteria, which USEPA finds to be an inadequate instrument for giving these requirements regulatory standing, notwithstanding that this policy statement was subject to public hearing.

(Ohio had previously provided essentially the same policy statement without public review, but USEPA judged this and related material not to constitute a complete submittal.)

Comment: The State commented on USEPA's concern that two source categories (certain types of municipal waste combustors and temporary sources) are exempted by appendix S and thus by Ohio rules and yet are not to be exempted under 40 CFR 51.165. The State commented that Ohio permits must comply with Federal law, Federal law does not permit these exemptions, and so the State has developed guidance that these exemptions do not apply.

Response: The State did not submit to USEPA the guidance that it claims provides that these exemptions do not apply. The State's SIP does contain appendix S, incorporated by reference in Rule 3745-31-05, and indeed relies on appendix S to interpret applicable new source review requirements. Consequently, Ohio's regulations are to be interpreted as also providing the exemptions in appendix S and therefore do not satisfy even the pre-1990 NSR requirements of part D of title I of the Act.

Comment: A local air pollution control agency comments that USEPA's involvement in permit oversight assures that Federal requirements will not be misapplied.

Response: Although USEPA agrees that its permit oversight can improve the quality of State permits, such an oversight program is not a substitute for an approvable SIP. USEPA cannot through oversight establish or correct requirements which are not correctly provided in the State regulations.

Comment: A commenter believes that USEPA acknowledges that Ohio's statutes and regulation "already require that the provisions of the amended Clean Air Act be met."

Response: The commenter is quoting statements that USEPA used to characterize the State's position; these statements do not represent USEPA's position.

III. Final Action

Notwithstanding comments to the contrary, USEPA's review indicates that Ohio's submittal does not clearly establish the specific criteria required by the Act by which judgments in new source permitting will be made. Furthermore, by relying not on properly adopted regulations but rather on a general regulatory provision (requiring compliance with the Clean Air Act) in conjunction with an unenforceable statement of permitting criteria, the State has failed to adopt enforceable SIP

provisions to implement an NSR program in accordance with the Clean Air Act requirements. Furthermore, Ohio's existing regulations exempt two types of sources which may not be exempted under the Act and applicable USEPA regulations. For these reasons, USEPA takes final action to disapprove Ohio's submittal for failure to satisfy part D requirements.

Under section 179(a)(2), one of the sanctions set forth in section 179(b) shall apply unless the deficiency has been corrected within 18 months of the effective date of this disapproval. Extensive discussion of USEPA's sanctions procedures is given in the Federal Register of August 4, 1994, at 59 FR 39832. Pursuant to 40 CFR 52.31, unless a revised plan has been submitted and proposed for approval in the meantime, a requirement for two-for-one offsets shall apply to any permits issued after [insert date 18 months after 30 days from date of publication] for major new sources and modifications in nonattainment areas. Highway funding sanctions shall apply [insert date 24 months after 30 days from date of publication], again unless a revised plan has been submitted and proposed for approval in the meantime.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

USEPA's disapproval of the State request under section 110 and part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this disapproval action would not have a significant impact on a substantial number of small entities because it does

not remove existing requirements nor does it impose any new Federal requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 21, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: September 8, 1994.

Valdas V. Adamkus,
Regional Administrator.

Chapter I, part 52, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart KK—Ohio

2. Section 52.1879 is amended by adding paragraph (a) to read as follows:

§ 52.1879 Review of new sources and modifications.

(a) The requirements of sections 172, 173, 182, and 189 for permitting of major new sources and major modifications in nonattainment areas for ozone, particulate matter, sulfur dioxide, and carbon monoxide are not met, because Ohio's regulations exempt

source categories which may not be exempted and because the State has not adopted the new permitting requirements of the Clean Air Act Amendments of 1990 in a clear or enforceable manner.

* * * * *

[FR Doc. 94-23349 Filed 9-20-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 52 and 81

[OH06-2-6229A, OH01-2-6230A, OH32-2-6231A; FRL-5073-5]

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

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a redesignation request and maintenance plan for Preble, Columbiana, and Jefferson Counties, Ohio as a revision to Ohio's State Implementation Plan (SIP) for ozone.

The revision is based on a request from the State of Ohio to redesignate these areas, and approve their maintenance plans, and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

DATES: This final rule becomes effective on November 21, 1994 unless notice is received by October 21, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to:

William L. MacDowell, Chief,
Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the requested redesignation, maintenance plan, and other materials relating to this rulemaking are available for public inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604; and Air Docket 6102, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. (It is recommended that you telephone William Jones at (312) 886-

6058, before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: William Jones, Regulation Development Section, Air Enforcement Branch (AE-17), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6058.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the pre-amended Clean Air Act (CAA), the United States Environmental Protection Agency (USEPA) promulgated the ozone attainment status for each area of every State. For Ohio, Preble, Columbiana, and Jefferson Counties were designated as nonattainment areas for ozone. See 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. No. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Pursuant to Section 107(d)(1)(C) of the CAA, Preble, Jefferson, and Columbiana Counties retained their designations of nonattainment for ozone by operation of law. See 56 FR 56694 (November 6, 1991). At the same time Preble, and Jefferson Counties were classified as transitional areas; and Columbiana County was classified as an incomplete data area.

The Ohio Environmental Protection Agency (OEPA) requested that Preble County be redesignated to attainment in a letter dated May 23, 1986; and that Jefferson and Columbiana Counties be redesignated to attainment in a letter dated July 14, 1986. On December 20, 1993, the United States Environmental Protection Agency (USEPA) proposed to disapprove the requested redesignations (see 58 FR 66334). The public comment period was from December 20, 1993, to January 19, 1994. In a January 18, 1994, letter, the State of Ohio requested a 90-day extension of the comment period. On February 18, 1994, the USEPA extended the comment period until April 19, 1994 (see 59 FR 8150). The OEPA submitted maintenance and contingency plans for the counties in a submittal dated April 14, 1994, and requested parallel processing of the submittal. The results of OEPA's public hearing and resulting revision to the maintenance and contingency plan was submitted in a letter dated August 10, 1994. Notwithstanding these submittals, no public comments specifically commenting on the proposed rulemaking were received during the extended comment period.

f. Review of the Requests

The State's May 23, 1986, and July 14, 1986, requests were previously

reviewed in a proposed rulemaking published on December 20, 1993, (see 58 FR 66334) in which USEPA proposed to disapprove the requests due to a lack of maintenance and contingency plans and enforceability deficiencies in their Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) regulations. Since that time the State has submitted additional information to address the basis of the proposed disapproval. The review of the previous submittal and the basic redesignation requirements are not summarized in this notice, but the reader is referred to the December 20, 1993, notice referenced above for a summary of the requirements and the previous submittal. The April 14, 1994, and August 10, 1994, submittals are summarized below and the requirements that were not met in the original submittal are addressed below.

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required the USEPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of the final USEPA conformity regulations. When that date passed without such promulgation, USEPA's General Preamble for the implementation of Title I informed States that its conformity regulations would establish a submittal date. See 57 FR 13498, 13557 (April 16, 1992).

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 24, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio is required to submit SIP revisions containing transportation and general conformity criteria and procedures

consistent with those established in the Federal rule by November 25 and 30, 1994, respectively. Because the deadline for such submittals has not yet come due, it is not an applicable requirement, under section 107(d)(3)(E)(v), for approval of this redesignation request.

A. Preble County

The maintenance plan provided for this county consists of an emissions and air quality summary; a mobile, area, and point source emissions inventory; and Permits-to-Install for all subject sources in Preble County.

The emissions summary for volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) are provided below:

TABLE 1.—VOC EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	0.24	41.13	4.16	45.52
1995	0.27	41.33	2.53	44.12
2005	0.34	41.64	1.93	43.92

TABLE 2.—NO_x EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	0.00	5.91	4.80	10.71
1995	0.00	6.16	3.96	10.12
2005	0.00	6.29	2.81	9.10

The total emissions are projected to decrease in the county, and, as a result, the county is expected to maintain the ozone air quality standard for the next ten (10) years. The mobile source NO_x and VOC emissions projections for the year 2005 will be the "budget" for transportation conformity purposes. The air quality monitoring data submitted by the State shows that the area is still in attainment of the National Ambient Air Quality Standards (NAAQS) for ozone.

Preble County, which was designated nonattainment prior to enactment of the Clean Air Act Amendments of 1990, must correct existing RACT rules for enforceability deficiencies. See 57 FR 13562. The State submitted copies of Permits-to-Install for all subject sources in the county. These permits indicate that no sources in the county are affected by a Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) rule that has an enforceability deficiency. The one source that would have been affected (degreaser) was permanently shut down. This satisfies the requirement for correcting enforceability deficiencies in the county.

The maintenance plan also includes a contingency measure that the State will use to ensure maintenance of the NAAQS for ozone. The State has committed to lower Reid Vapor Pressure (RVP) gasoline as the contingency measure. This would be implemented in the case of a violation in the area. In order for the State to use lower RVP gasoline, a finding of necessity must first be made by USEPA under Section 211(c)(4)(C). If this finding of necessity is not provided, Ohio EPA has committed to choose an alternative unspecified emission control measure deemed appropriate based upon a consideration of cost-effectiveness, VOC reduction potential, economic and social considerations, or other factors that the State judges to be appropriate. This decision would be made and implemented within 12 months from the official notification by USEPA that a waiver would not be granted. OEPA also provided the following schedule for implementing the lower RVP measure:

TABLE 3.—SCHEDULE FOR IMPLEMENTING LOWER RVP

Date	Action/event
March 15, 1994	Submit draft rules to USEPA.
October 15, 1994 ..	Submit final rules to USEPA.
Trigger event	Monitored violation.
1 month from trigger.	Ohio EPA finding of violation announced. Ohio EPA submits request for program budget. Ohio EPA hires additional staff for program.
2 months from trigger.	Ohio EPA secures lab contracts.
3 months from trigger.	Ohio EPA purchases needed equipment.
4 months from trigger.	Ohio EPA initiates public awareness program. Ohio EPA secures lab equipment.
Six months from trigger.	Gasoline Dispensing Facilities achieve final compliance.

B. Jefferson County

The maintenance plan provided for this county consists of emissions, and air quality summaries; and mobile, area, and point source emissions inventories.

The emissions summaries for volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) are provided below:

TABLE 4.—VOC EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	1.13	6.50	8.51	16.14
1996	1.20	6.40	4.93	12.53
2005	1.33	6.30	4.11	11.74

TABLE 5.—NO_x EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	378	2.7	4.7	385.4
1996	376	2.7	4.1	382.8
2005	340	2.6	3.4	346.0

The total emissions are projected to decrease in the county and, as a result, the county is expected to maintain the ozone air quality standard. The mobile source NO_x and VOC emissions projections for the year 2005 will be the budget for transportation conformity purposes. The air quality monitoring data submitted by the State shows that the area is still in attainment of the NAAQS for ozone.

The maintenance plan also includes a contingency measure that the State will use to ensure maintenance of the NAAQS for ozone. This is the same plan that is outlined above for Preble County.

This county is similar to Preble in that it is a transitional area. The main difference between them is that Jefferson County was never included in the post 1987 SIP call letters issued by USEPA to OEPA (dated May 26, 1988, and November 8, 1989), and was never cited as having RACT deficiencies, as Jefferson County was not in violation of the NAAQS. Thus Jefferson County is not subject to a requirement to correct RACT deficiencies.

C. Columbiana County

The maintenance plan provided for this county consisted of an emissions summary; and mobile, area, and point source emissions inventories.

The emissions summaries for volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) are provided below:

TABLE 6.—VOC EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	1.89	10.40	11.69	23.98
1996	1.98	10.60	6.79	19.37
2005	2.25	10.80	5.65	18.70

TABLE 7.—NO_x EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	0.06	4.60	7.00	11.66
1996	0.06	4.80	6.03	10.89
2005	0.07	4.90	5.05	10.02

The total emissions are projected to decrease in the county and, as a result, the county is expected to maintain the ozone air quality standard. The mobile source NO_x and VOC emissions projections for the year 2005 will be the budget for transportation conformity. The maintenance plan also includes a contingency measure that the State will use to ensure maintenance of the NAAQS for ozone. This is the same plan that is outlined above for Preble County.

This county is similar to Jefferson in that it was not included in the post 1987 USEPA SIP call letters to OEPA, and was never cited as having RACT deficiencies, as Columbiana County was not in violation of the NAAQS. Thus Columbiana County is not subject to a requirement to correct RACT deficiencies.

Rulemaking Action

The ozone redesignation requests for Preble, Jefferson, and Columbiana Counties are approved as meeting conditions of the CAA in section 107(d)(3)(E) for redesignation, since: (i) The area has attained the NAAQS for ozone; (ii) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) The improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations; (iv) The Administrator is fully approving maintenance plans for the counties as meeting the requirements of section 175A; and (v) Ohio has met all requirements applicable to the counties under section 110 and part D.

Because USEPA considers this action to be noncontroversial and routine, the USEPA is approving it without prior approval. This action will become effective on November 21, 1994. However, if the USEPA receives adverse comments by October 21, 1994, then the USEPA will publish a document that withdraws the action, and will address these comments in the final rule on the requested redesignation and SIP revision which has been proposed for approval in the proposed rules section of this Federal Register. The comment

period will not be extended or reopened.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table three (3) action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future notice will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table two (2) and three (3) SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for a period of two (2) years. USEPA has submitted a request for a permanent waiver for Table two (2) and Table three (3) SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993. OMB has exempted this regulatory action from E.O. 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government

entities with jurisdiction over populations of less than 50,000.

SIP approvals under Section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 21, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control.

Dated: September 8, 1994.

Valdas V. Adamkus,
Regional Administrator.

Chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart KK—[Amended]

2. Section 52.1885 is amended by adding a new paragraph (a)(5) to read as follows:

§ 52.1885 Control strategy: Ozone.

(a) * * *

(5) The ozone maintenance plans for Preble, Columbiana, and Jefferson Counties.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—OHIO

1. The authority citation of part 81 continues to read as follows:

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

2. In § 81.336, the ozone table is amended by revising the entries for Columbiana, Preble, and Jefferson Counties to read as follows:

§ 81.336 Ohio.

OHIO—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Columbiana County Area Columbiana County	October 21, 1994.	Attainment		
Preble County Area Preble County	October 21, 1994.	Attainment		
Steubenville Area Jefferson County	October 21, 1994.	Attainment		

¹ This date is November 15, 1990, unless otherwise noted.

40 CFR Parts 52 and 81

[NC66-1-6567a; FRL-5071-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On April 27, 1994, the North Carolina Department of Environmental Management (NCDEM), submitted a maintenance plan and a request to redesignate the Winston-Salem/Forsyth County area from nonattainment to attainment for carbon monoxide (CO). The CO nonattainment area consists only of Forsyth County. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the North Carolina request because it meets the maintenance plan and redesignation requirements set forth in the CAA.

DATES: This final rule will be effective November 7, 1994, unless critical or adverse comments are received by October 21, 1994. If the effective date is delayed, timely notice will be published in the *Federal Register*.

ADDRESSES: Written comments should be sent to Ben Franco, at the EPA Regional Office listed below. Copies of the redesignation request and the State of North Carolina's submittal are available for public review during normal business hours at the addresses listed below.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460;

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia, 30365;

Department of Environment, Health and Natural Resources, P.O. Box 29535, Raleigh, North Carolina, 27626-0535.

FOR FURTHER INFORMATION CONTACT: Ben Franco of the EPA Region IV Air Programs Branch at (404) 347-3555, ext. 4211, and at the above address.

SUPPLEMENTARY INFORMATION:**I. Background**

In a March 15, 1991, letter to the EPA Region IV Administrator, the Governor of North Carolina recommended the area of Winston-Salem/Forsyth County be designated as nonattainment for CO as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAA) (Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). The city was designated nonattainment and classified as "moderate" under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR part 81, § 81.334.) Because Winston-Salem had a design value of 9.7 ppm (based on 1988 and 1989 data), the area was considered moderate. The CAA established an attainment date of December 31, 1995, for all moderate CO areas.

Forsyth County has ambient monitoring data showing attainment of the CO NAAQS, during the period from 1990 through 1993. The area has continued to monitor attainment to date in 1994. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on April 27, 1994, the State of North Carolina submitted a CO redesignation request and a maintenance plan for the Winston-Salem/Forsyth County area. The request for redesignation submittal and maintenance plan was approved by NCEMC on April 14, 1994. North Carolina submitted evidence that a public hearing was held on March 25 and 28, 1994.

II. Evaluation Criteria

The 1990 CAA Amendments revised section 107(d)(1)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;
2. The area must meet all applicable requirements under section 110 and Part D of the CAA;
3. The area must have a fully approved SIP under section 110(k) of CAA;
4. The air quality improvement must be permanent and enforceable; and,
5. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA.

III. Review of State Submittal

On June 14, 1994, Region IV determined that the information received from the NCDEM constituted a complete redesignation request under

the general completeness criteria of 40 CFR part 51, appendix V, §§ 2.1 and 2.2.

The North Carolina redesignation request for the Winston-Salem/Forsyth County area meets the five requirements of section 107(d)(3)(E), noted above. The following is a brief description of how the State has fulfilled each of these requirements. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

1. Attainment of the CO NAAQS

The North Carolina request is based on an analysis of quality assured CO air monitoring data which is relevant to the maintenance plan and to the redesignation request. The ambient air CO monitoring data for calendar year 1990 through calendar year 1993 shows no violations of the CO NAAQS in the Winston-Salem/Forsyth County area. The most recent ambient CO data for the calendar year 1994 continue to show no violations in the Winston-Salem/Forsyth County area. Because the Winston-Salem/Forsyth County area has complete quality assured data showing no more than one exceedance of the standard per year over at least two consecutive years, the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.9 and appendix C). North Carolina has committed to continue monitoring in this area in accordance with 40 CFR part 58.

2. Meeting Applicable Requirements of Section 110 and Part D

The 1990 CAA Amendments, modified section 110(a)(2) and, under part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA has reviewed the SIP to ensure that it contains all measures that were due under the 1990 Amendments prior to or at the time the State submitted its redesignation request.

A. Section 110 Requirements

Although section 110 was amended by the 1990 Amendments, the Winston-Salem/Forsyth County SIP meets the requirements of amended section 110(a)(2). The State implemented an Oxygenated Fuel program for the areas of Raleigh/Durham and Winston-Salem during the 1992 and 1993 winter seasons. EPA has analyzed the SIP and determined that it is consistent with the

requirements of amended section 110(a)(2).

B. Part D Requirements

Before Winston-Salem/Forsyth County may be redesignated to attainment, it also must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 3 of part D establishes additional requirements for nonattainment areas classified under section 186(a). The Winston-Salem area was classified as moderate (See 40 CFR 81.334). Therefore, in order to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and the requirements of subpart 3 of part D, which became due on or before April 27, 1994, the date the State submitted a complete redesignation request. EPA interprets section 107(d)(3)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that become applicable to the subject area prior to or at time of the submission of the redesignation request. The area will become subject to the CAA that come due subsequent to the submission of the redesignation request until the request is approved (See section 175A(c)) and if the redesignation is disapproved, the State remains obligated to fulfill those requirements.

B1. Subpart 1 of Part D—Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator but no later than three years after an area is designated as nonattainment. Because Winston-Salem was designated as a new CO nonattainment area on June 6, 1992, the requirements are not due until June 6, 1995. Therefore, the submission of a New Source Review program and contingency measures required under 172(c) are not yet due. The Region is, however, in the process of approving the State's revised NSR regulation which includes CO nonattainment areas. Upon redesignation of these areas to attainment, the Prevent of Significant Deterioration (PSD) provisions contained in part C of title I are applicable. On June 12, 1975, December 30, 1976, June 19, 1978, August 7, 1980, February 23, 1982, and August 15, 1994, EPA approved revisions to the State of North Carolina's PSD program (See 40

FR 25004, 41 FR 56805, 43 FR 26388, 45 FR 52676, 47 FR 7836, 59 FR 41708).

B2. Subpart 1 of Part D—Section 176(c) of the CAA requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)).

EPA promulgated final conformity regulations on November 24, 1993 (58 FR 62188) and November 30, 1993 (58 FR 63214). These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of North Carolina is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, North Carolina is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals have not yet come due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

B3. Subpart 3 of Part D—Under section 187(a) areas designated nonattainment for CO under the amended CAA and classified as moderate were required to meet several requirements by November 15, 1992. North Carolina was required to submit a 1990 Emission Inventory. EPA has reviewed and is approving in this notice North Carolina's 1990 Base Year Emission Inventory. The requirement to

make I/M corrections are not applicable to Forsyth County since it was not a pre-enactment nonattainment area, and therefore did not have an existing program before the CAA. Section 211(m) further required North Carolina to submit an oxygenated fuels regulation for the Winston-Salem area. North Carolina submitted a complete Oxygenated Fuel SIP on November 20, 1992. The Oxygenated Fuel Program is fully adopted and has been approved by EPA (See 59 FR 33683 published on June 30, 1994). Therefore, all Subpart 3 requirements that were applicable at the time the State submitted its redesignation request have been met.

3. Fully Approved SIP Under Section 110(k) of the CAA

Based on EPA's approval of SIP revisions under the 1990 Amendments, EPA has determined that the Winston-Salem/Forsyth County area has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and Part D as discussed above.

4. Improvement in Air Quality Due to Permanent and Enforceable Measures

The control measures to which the emission reductions are attributed mostly to the Federal Motor Vehicle Control Program (FMVCP). The fleet turnover under the FMVCP produced annual CO emission reductions of 6 percent.

In association with its emission inventory discussed below, the State of North Carolina has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of certain existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed the area to attain the NAAQS.

5. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the

maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. In this notice, EPA is approving the State of North Carolina's maintenance plan for the Winston-Salem/Forsyth County area because EPA finds that North Carolina's submittal meets the requirements of section 175A.

A. Emissions Inventory—Base Year Inventory

On November 16, 1992, the State of North Carolina submitted a comprehensive inventory of CO emissions from the Winston-Salem/Forsyth County area. The inventory includes emissions from area, stationary, and mobile sources using 1990 as the base year for calculations. The 1990 inventory is considered representative of attainment conditions

because the NAAQS was not violated during 1990.

The State submittal contains the detailed inventory data and summaries by county and source category. The comprehensive base year emissions inventory was submitted in the National Emission Data System format. Finally, this inventory was prepared in accordance with EPA guidance. It also contains summary tables of the 1990 base year and was projected to the year 2005.

CO EMISSIONS INVENTORY SUMMARY [Tons per day]

Year	Area	Non-road	Mobile	Point	Total
1990	32.82	0.95	285.79	4.44	324.00
1993 ¹	33.40	0.97	186.59	4.57	225.53
1996	34.40	0.99	212.6	64.71	252.76
1999	36.05	1.01	195.93	4.85	237.84
2002	37.09	1.03	187.23	4.97	230.32
2005	37.83	1.04	183.90	5.06	227.83

¹ Oxygenated Fuel program was in place.

B. Demonstration of Maintenance—Projected Inventories

Total CO emissions were projected from 1990 base year out to 2005. These projected inventories were prepared in accordance with EPA guidance. North Carolina will not continue the Oxygenated Fuel program in Winston-Salem. The projections show that calculated CO emissions, assuming no oxygenated fuels program after 1993, are not expected to exceed the level of the base year inventory during this time period. Therefore, it is anticipated that Winston-Salem will maintain the CO standard without the program, and the program would no longer be implemented following redesignation. In case of an air quality problem, the program may be implemented as a contingency measure.

C. Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Winston-Salem/Forsyth County area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State has also committed to submit periodic inventories of CO emissions every three years.

D. Contingency Plan

The level of CO emissions in the Winston-Salem/Forsyth County area will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the

ambient air pollutant concentrations may exceed or violate the NAAQS. Also, section 175(A)(d) of the CAA requires that the contingency provisions include a requirement that the State implement all measures contained in the SIP prior to redesignation. Therefore, North Carolina has provided contingency measures with a schedule for implementation in the event of a future CO air quality problem. The plan contains triggering mechanisms to determine when contingency measures are needed. The Winston-Salem/Forsyth County contingency plan's primary trigger will be a violation of the CO NAAQS. A secondary trigger will be activated within 30 days of the State finding either: (1) The periodic emissions inventory exceeds the base inventory by 10 percent or more, or (2) a monitored air quality exceedance pattern indicates that an actual CO NAAQS violation may be imminent. A pattern will be deemed to indicate an imminent violation if: (a) One exceedance of the standard per year has been monitored at a single monitor for two successive years and those exceedances are at least greater than 20 percent above the standard (i.e., 10.8 ppm or above) or (b) the monitored air quality exceedance pattern otherwise suggest that a CO NAAQS violation is likely. Within 45 days of the trigger, the State will activate the pre-adopted regulations discussed below to become effective at the beginning of the next CO season. When other measures are needed to ensure that a future violation of the CO NAAQS does not occur, the

State will complete the adoption process within one year of the secondary trigger. As the State has demonstrated that the area will continue to maintain the standard without the Oxygenated Fuels program, the State will make that program a contingency measure that will be implemented in the event of a trigger being activated. In case of a primary or secondary trigger, NCDEM will implement an oxygenated gasoline fuel program or expand an already-existing program's coverage. In addition, NCDEM may do one or a combination of the following: expand the I/M program coverage; upgrade to an enhanced I/M program; institute transportation control measures; or implement an employee commute options program. EPA finds that the contingency measures provided in the State submittal meet the requirements of section 175A(d) of the CAA.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

Final Action

EPA is approving the Winston-Salem/Forsyth County CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, the Agency is approving the request and redesignating the Winston-

Salem/Forsyth County CO area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 7, 1994 unless, by October 21, 1994 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 7, 1994.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The CO SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the CO NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions contained in the approved CO SIP. Changes to CO SIP regulations rendering them less stringent than those contained

in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation (section 179(a) of the CAA) and in a SIP deficiency call made pursuant to sections 110(a)(2)(H) and 110(k)(2) of the CAA.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, it does not have any economic impact on any small entities. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Accordingly, I certify that the approval of the redesignation request will not have an impact on any small entities.

List of Subjects

40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control, National parks, and Wilderness areas.

NORTH CAROLINA—CARBON MONOXIDE

Dated: September 2, 1994.

Joe R. Franzmathes,
Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(75) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(75) The redesignation and maintenance plan for Winston-Salem/Forsyth County submitted by the North Carolina Department of Environmental Management on April 27, 1994, as part of the North Carolina SIP. The emission inventory projections are included in the maintenance plan.

(i) Incorporation by reference.

(A) Maintenance Plan for the Forsyth County Carbon Monoxide Nonattainment Area adopted on April 14, 1994.

(ii) Other material. None.

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.334 the table for "North Carolina-Carbon Monoxide" is amended by revising the entry for the Winston-Salem/Forsyth County area to read as follows:

§ 81.334 North Carolina.

* * * * *

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Winston-Salem Area Forsyth County	November 7, 1994			

¹ This date is November 15, 1990, unless otherwise noted.

40 CFR Parts 52 and 81

[OH31-2-6361; FRL-5066-9]

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

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving maintenance plans and redesignation of Morgan and Washington Counties, Ohio, from nonattainment to attainment for sulfur dioxide (SO₂), and is deferring action on the maintenance plans and redesignation request for Gallia and Coshocton Counties. This action for Morgan and Washington Counties is based on Ohio's request, and provides that the new source review requirements for nonattainment areas will no longer apply for SO₂ in these two counties.

EFFECTIVE DATE: This final rule is effective on October 21, 1994.

ADDRESSES: Copies of the maintenance plan and redesignation request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone John Summerhays at (312) 886-6067 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays at (312) 886-6067.

SUPPLEMENTARY INFORMATION:**I. Summary of Proposed Rulemaking**

A subsequent submittal provided stack test data for one of the relevant facilities. On March 18, 1994, at 59 FR 12886, USEPA proposed to approve maintenance plans and redesignation of Morgan and Washington Counties, Ohio, from nonattainment to attainment for sulfur dioxide (SO₂). In that document, USEPA did not propose to take action on the maintenance plans and redesignation request for Gallia and Coshocton Counties. The notice of proposed rulemaking (NPR) included a background synopsis of the State's submittals and the applicable criteria, a full review of the State's submittals, and a summary of the proposed action. The

NPR contained five subsections corresponding to the five criteria for redesignation from nonattainment to attainment given in section 107(d)(3)(E) of the Clean Air Act. In the NPR, USEPA made the following proposed findings: (i) All four counties are attaining the 24-hour air quality standard, Morgan and Washington Counties are attaining the 3-hour standard, and USEPA did not evaluate whether Coshocton and Gallia Counties are attaining the 3-hour standard; (ii) USEPA considered approval of the Morgan and Washington County plans under section 110(a)(2) to satisfy section 107(d)(3)(E)(ii) for these counties, but "based on questions as to whether (Federal Implementation Plans (FIPs)) satisfy the requirements of section 107(d)(3)(E)(ii)," USEPA deferred action on Ohio's request for Coshocton and Gallia Counties; (iii) USEPA judged all four counties to have permanent and enforceable emission reductions; (iv) USEPA judged the maintenance plans for Morgan and Washington Counties adequate, and did not evaluate the maintenance plans for Coshocton and Gallia Counties; and (v) USEPA judged that Ohio had satisfied the requirements of section 110 and part D of title I for Morgan and Washington Counties, and did not evaluate whether these requirements were satisfied for Coshocton and Gallia Counties. On the basis of this review, USEPA proposed to approve the maintenance plans and redesignation request for Morgan and Washington Counties and did not propose action for Coshocton and Gallia Counties.

II. Public Comments/USEPA Responses

One letter commenting on the proposed rulemaking was received, submitted by the Ohio Environmental Protection Agency (OEPA). This letter included as an attachment a letter commenting on the same issues, sent from Ohio Governor Voinovich to Administrator Carol Browner prior to publication of the notice of proposed rulemaking. The comments in these letters and USEPA's responses follow:

Comment: Ohio supports the proposed action with respect to Morgan and Washington Counties.

Response: USEPA received no adverse comments on this part of its proposal, and, for the reasons provided in the proposal, concludes that the maintenance plans and redesignation request for these counties should be approved.

Comment: The State objects to USEPA's decision to defer action on the redesignation of Coshocton and Gallia Counties, and in particular presents arguments that areas subject to FIP

limits (promulgated under section 110(c) of the Clean Air Act) rather than SIP limits (approved under section 110(k) or its equivalent) may be redesignated. Ohio argues that FIP limits are equivalent to SIP limits. The State cites language previously in section 110(d) (essentially moved to section 302(q) by the Clean Air Act Amendments of 1990) that the "implementation plan" includes both approved State submittals and federally promulgated measures. The State comments that if areas with FIPs could not be redesignated, then "U.S. EPA could never promulgate a FIP because such a plan would not provide for attainment redesignations and thus would be incomplete," and "nonattainment areas would be frozen, even though air quality may be demonstrably improved."

Also, the Governor commented that designations are based on air quality and that FIPs provide for permanent air quality improvement. The Governor concluded that Coshocton and Gallia Counties have been exhibiting attainment for 14 years, and that obstruction to the attainment status of these counties is based on a narrow interpretation of the Clean Air based on "periodic changes in review requirements," and is inappropriate and unnecessary.

Response: Section 107(d)(3)(E) of the Act, as amended in 1990, precludes USEPA from redesignating areas subject to FIPs, such as Coshocton and Gallia Counties to attainment. That section of the Act prohibits USEPA from redesignating a nonattainment area to attainment unless the area satisfies certain explicit statutory criteria. It provides that:

The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless—

(i) The Administrator determines that the area has attained the national ambient air quality standard;

(ii) The Administrator has fully approved the applicable implementation plan for the area under section 110(k);

(iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

(v) The State containing such area has met all requirements applicable to the area under section 110 and part D.

As is evident, several criteria must be satisfied for an area to be redesignated to attainment apart from attaining the national ambient air quality standard and the determination that improvements in air quality are due to permanent and enforceable reductions in emissions. It is those criteria, especially that in clauses (ii), (iv) and (v), that are pertinent with respect to the issue of whether a nonattainment area may be redesignated to attainment if there is FIP, rather than a SIP, in place.

First, the language of clause (ii) requires that for USEPA to redesignate an area, USEPA must have "fully approved the applicable implementation plan for the area under section 110(k)." This clause clearly requires that a SIP be in place. Only SIPs are approved by USEPA; FIPs are not approved, but promulgated. More importantly, the clause refers to approval under section 110(k), the provision of the Act setting forth the procedure for USEPA to act on SIP revisions submitted to the Agency by states. Thus, a FIP does not qualify as a plan approved under section 110(k). In contrast, the language of section 302(q) defines the term "applicable attainment plan" as meaning a FIP or a SIP. Thus, it defines "applicable implementation plan" as "the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110 (a SIP, which is referred to in section 107(d)), or promulgated under section 110(c) (a FIP, which is not referred to in section 107(d)(3)(E)(ii))."

Second, clause (iv) requires that USEPA have fully approved a maintenance plan as meeting the requirements of section 175A. Section 175A(a) requires that each State that submits a redesignation request to submit "a revision of the applicable State implementation plan to provide for maintenance of the national primary ambient air quality standard," and thus clearly presupposes that a SIP, not a FIP, will be in place prior to redesignation.

Third, clause (v) requires that, in order to have an area redesignated to attainment, the State containing the area must meet "all requirements applicable to the area under section 110 and part D." As these requirements concern various SIP submissions, this clause also implicitly means that USEPA cannot approve a redesignation request for an area that is subject to a FIP.

Thus, the language of section 107(d)(3) plainly prohibits USEPA from

redesignating an area to attainment if that area is subject to a FIP. This outcome is fully consistent with a fundamental policy underlying the law—that the states have primary responsibility for attaining and maintaining air quality standards and that FIPs are intended to be only short-term measures to fill gaps in control strategies. Further evidence of this policy is provided by the fact that sanctions imposed under section 179 due to a state's failure to comply with its SIP obligations are not suspended or lifted due to USEPA's promulgation of a FIP pursuant to its obligations under section 110(c).

USEPA also notes that areas subject to FIPs are not frozen in place as nonattainment areas. Assuming that the area continued to satisfy the national ambient air quality standards, the area would be eligible for redesignation to attainment once the state submitted approvable SIP revisions as required by the Act, and submitted an approvable state maintenance plan.

Comment: In another argument for redesignating areas with FIP-based plans, the State interprets section 110(n)(1), the "Savings Clause," as providing that "[t]he authority of USEPA to redesignate nonattainment areas under a section 110(c) plan would remain unchanged as a result of the 1990 Amendments." The State believes that former section 110(d) provided this authority prior to the 1990 amendments.

Response: Section 110(n)(1) authorizes the enforcement of plan elements approved prior to 1990. It does not authorize USEPA to ignore post-1990 Clean Air Act criteria in judging the acceptability of States' requests. The requirement now in section 107(d)(3)(E)(ii) requiring a plan approved under section 110(k) was not included in the pre-1990 Clean Air Act or in USEPA's guidance. However, this requirement is applicable now under the Act.

Comment: The Governor commented that "[a]reas with FIPs have been redesignated in Ohio in the past," indicating that USEPA agreed that FIPs provide for permanent air quality improvement, and indicating further that Gallia and Coshocton Counties should be redesignated.

Response: Regardless of the situation prior to the enactment of the Clean Air Act Amendments of 1990, the requirements of section 107(d)(3)(E) are applicable under the Act now, and must be satisfied as a prerequisite for redesignating an area from nonattainment to attainment.

Comment: The State comments that USEPA should not use 1.95 as the

conversion factor from coal sulfur content to sulfur dioxide emissions, but should instead use the factor of 1.9 given in Supplement F of AP-42 (dated July 1993).

Response: USEPA agrees with the State's comment. Since the fuel quality information indicated the air quality standards being met using a 1.95 conversion factor, the fuel quality information also indicates the air quality standards being met using a 1.9 conversion factor.

III. Rulemaking Action

USEPA has reviewed the State's submittals and other related material and, for the reasons stated in the proposal, has concluded that the maintenance plan and redesignation request for Morgan and Washington Counties satisfy the applicable criteria for approval. Consequently, USEPA approves the maintenance plan for SO₂ for Morgan and Washington Counties, and redesignates these two counties to attainment. USEPA continues to defer action with respect to Ohio's maintenance plans and redesignation requests for Coshocton and Gallia Counties.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action under the processing procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 22291 for a period of 2 years. The USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 21, 1994. Filing a petition for reconsideration by the Administrator of

this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Intergovernmental relations, Sulfur oxides.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 25, 1994.

Valdas V. Adamkus,
Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart KK—Ohio

2. Section 52.1881 is amended by adding paragraph (a)(12) to read as follows:

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

(a) * * *

OHIO—SO₂

(12) In a letter dated June 25, 1992, Ohio submitted a maintenance plan for sulfur dioxide in Morgan and Washington Counties.

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PART 81—[AMENDED]

1. The authority citation of part 81 continues to read as follows:

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

2. In § 81.336 the "Ohio-SO₂" table is amended by revising the entries for "Morgan County" and "Washington County" to read as follows:

§ 81.336 Ohio.

* * *

Designated area

Does not
meet pri-
mary
standards

Does not
meet sec-
ondary
standards

Cannot be
classified

Better than
national
standards

Morgan County

X

Washington County

X

[FR Doc. 94-23109 Filed 9-20-94; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 81

[PA46-1-6631; FRL-5075-7]

Designation of Areas for Air Quality Planning Purposes; State of Pennsylvania; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: On December 21, 1993 (58 FR 67334), EPA took final action to redesignate areas as nonattainment for the PM-10 (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) and sulfur dioxide (SO₂) national ambient air quality standards (NAAQS). This notice corrects the entry for "Warren County" in the section 107 attainment designations table for "Pennsylvania—SO₂" displayed at 58 FR 67345. "Mead Twp" shall be classified as "Cannot be classified" only and not "Does not meet

secondary standards". "Clarendon Boro" shall be classified as "Cannot be classified". "Warren Boro" shall be classified as "Does not meet secondary standards" in addition to the classification of "Does not meet primary standards". The remainder of the "Warren County" entry is complete and accurate.

EFFECTIVE DATE: January 20, 1994.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Air & Radiation Programs Branch (3AT11), U.S.

Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: (215) 597-9781.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 29, 1994.

Stanley Laskowski,
Acting Regional Administrator, Region III.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

2. In § 81.339 the table for "Pennsylvania—SO₂" is amended by revising the entry for "Warren County" to read as follows:

§ 81.339. Pennsylvania.

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