

anticipate that any further extensions are necessary or appropriate.

In addition to this action extending the comment period, MSHA will hold public hearings to receive comments. The hearings will address any issues relevant to the rulemaking such as the requirements for dose determination, threshold level, exchange rate, action level, permissible exposure level, administrative/engineering controls, dual hearing protection level, ceiling level, operator exposure monitoring, employee notification, hearing protectors, training, audiometric testing, follow-up evaluation, follow-up corrective measures, notification of results, reporting requirements, access to records, and transfer of records.

The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearings and may exclude irrelevant or unduly repetitious material and questions.

Each session will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearing panel may ask questions of speakers. At the discretion of the presiding official, the time allocated to speakers for their presentations may be limited. In the interest of conducting productive hearings, MSHA will schedule speakers in a manner that allows all points of view to be heard as effectively as possible.

Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. Copies of the hearing transcripts will be made available for public review.

MSHA will accept additional written comments and other appropriate data for the record from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of posthearing comments, the record will remain open until June 16, 1997. This provides a total of 6 months from publication for the public to comment on this proposed rule.

Dated: January 31, 1997.

J. Davitt McAteer,

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 97-3001 Filed 2-5-97; 8:45 am]

BILLING CODE 4510-43-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[LA-38-1-7322; FRL-5683-5]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plan for Calcasieu Parish; Redesignation of Calcasieu Parish to Attainment for Ozone

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

**ACTION:** Proposed rule.

**SUMMARY:** This document announces the Regional Administrator's decision to propose approval of a request from the State of Louisiana to redesignate Calcasieu Parish to attainment for ozone. On December 20, 1995, the State of Louisiana submitted a maintenance plan and request to redesignate the Calcasieu Parish marginal ozone nonattainment area to attainment. Under the Clean Air Act (the Act), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other Act redesignation requirements. In this action, EPA is proposing approval of Louisiana's redesignation request and maintenance plan because they meet requirements set forth in the Act. The EPA is also proposing approval of the 1993 base year emissions inventory for Calcasieu Parish. If approved, the maintenance plan and emissions inventory will become a federally enforceable part of the State Implementation Plan (SIP) for Louisiana.

**DATES:** Comments on this proposed rule must be postmarked by March 10, 1997.

**ADDRESSES:** Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's submittal and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency,  
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,  
Dallas, Texas 75202-2733.  
Louisiana Department of Environmental Quality, Office of Air Quality, 7290  
Bluebonnet Boulevard, Baton Rouge,  
Louisiana 70810.

Anyone wishing to review this proposal at the Region 6 EPA office is

asked to contact the person below to schedule an appointment 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Lt. Mick Cote, Air Planning Section (6PD-L), EPA Region 6, telephone (214) 665-7219.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Clean Air Act, as amended in 1977, required areas that were designated nonattainment based on a failure to meet the ozone National Ambient Air Quality Standards (NAAQS) to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. Calcasieu Parish was designated under section 107 of the 1977 Clean Air Act as nonattainment with respect to the ozone NAAQS on September 11, 1978. For purposes of redesignations, the State of Louisiana has an approved ozone SIP for Calcasieu Parish.

The LDEQ has collected ambient monitoring data since 1992 that show no violations of the ozone NAAQS of 0.12 parts per million. The LDEQ has developed a maintenance plan for Calcasieu Parish, and solicited public comment. Subsequently, LDEQ submitted a request, through the Governor's office, to redesignate this parish to attainment with respect to the ozone NAAQS. This maintenance plan and redesignation request for Calcasieu Parish was submitted to EPA on December 20, 1995.

##### II. Analysis of State Submittal

###### A. Evaluation Criteria

The Act revised section 107(d)(3)(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 Act; (3) the area must have a fully approved SIP under section 110(k) of the Act; (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 Act. Section 107(d)(3)(D) of the Act allows a Governor to initiate the redesignation process for an area to apply for attainment status.

###### (1) Attainment of the NAAQS for Ozone

Attainment of the ozone NAAQS is determined based on the expected number of exceedances in a calendar year. The method for determining

attainment of the ozone NAAQS is contained in 40 CFR 50.9 and appendix H to that section. The simplest method by which expected exceedances are calculated is by averaging actual exceedances at each monitoring site over a three year period. An area is in attainment of the standard if this average results in expected exceedances for each monitoring site of 1.0 or less per calendar year. When a valid daily maximum hourly average value is not available for each required monitoring day during the year, the missing days must be accounted for when estimating exceedances for the year. Appendix H provides the formula used to estimate the expected number of exceedances for each year.

The State of Louisiana's request is based on an analysis of quality-assured ozone air quality data which is relevant to both the maintenance plan and to the redesignation request. The data come from the State and Local Air Monitoring Station network. This request is based on ambient air ozone monitoring data collected from four ozone monitoring stations for more than 3 consecutive years in the area. Ozone data has been collected since 1981 at the Westlake monitoring site, since 1984 at the Carlyss site, and since 1991 at the Vinton and LeBleu sites. The data clearly show an expected exceedance rate of less than 1 since 1992. Please see the technical support document (TSD) for the detailed air quality monitoring data.

In addition to the demonstration discussed above, EPA required completion of air network monitoring requirements set forth in 40 CFR part 58. This included a quality assurance plan revision and a monitoring network review to determine the adequacy of the ozone monitoring network. The LDEQ fulfilled these requirements to complete documentation for the air quality demonstration. The LDEQ has also committed to continue monitoring in Calcasieu Parish in accordance with 40 CFR part 58.

In summary, EPA believes that the data submitted by the LDEQ provides an adequate demonstration that Calcasieu Parish attained the ozone NAAQS. Moreover, the monitoring data continue to show attainment to date.

If the State's monitoring data demonstrates a valid violation of the NAAQS before the final action is effective, approval of the redesignation will be withdrawn and a proposed disapproval substituted for the final approval.

### (2) Section 110 Requirements

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the Act, EPA has reviewed the SIP to ensure that it contains all measures that were due under the Act prior to or at the time the State submitted its redesignation request, as set forth in EPA policy. The EPA interprets section 107(d)(3)(E)(v) of the Act to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the same time as the submission of a complete redesignation request. In this case, the date of submission of a complete redesignation request is December 20, 1995.

Requirements of the Act that come due subsequently continue to be applicable to the area at later dates (see section 175A of the Act) and, if redesignation of any of the areas is disapproved, the State remains obligated to fulfill those requirements. These requirements are discussed in the following EPA documents: "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992; "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992; and "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

The EPA has analyzed the Louisiana SIP and determined that it is consistent with the requirements of amended section 110(a)(2) of the Act. The SIP contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications to existing ones; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and requires stationary source emissions monitoring and reporting. For purposes of redesignation, the Calcasieu SIP was reviewed to ensure that all requirements of section 110(a)(2) of the Act, containing general SIP elements, were satisfied. As noted above, EPA believes the SIP satisfies all of those requirements.

### (3) Part D Requirements

Before Calcasieu Parish can be redesignated to attainment, the Louisiana SIP must have fulfilled the applicable requirements of part D of the Act. 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 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a)(1) of the Act.

#### (a) Subpart 1 of Part D—Section 172(c) Plan Provisions

Under section 172(b) of the Act, the Administrator established that States containing nonattainment areas shall submit a plan or plan revision meeting the applicable requirements of section 172(c) of the Act no later than three years after an area is designated as nonattainment, i.e., unless EPA establishes an earlier date. Calcasieu Parish had an attainment date of November 15, 1993. Due to technical problems with the Vinton monitoring site in 1993, EPA deferred making an attainment determination for Calcasieu Parish until the monitoring issue was resolved. The monitoring issue was recently resolved to EPA's satisfaction, and EPA agrees with the State that Calcasieu Parish has attained the ozone standard.

The EPA has determined that the Act's section 172(c)(2) reasonable further progress requirement is not applicable to Calcasieu Parish; likewise, the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures beyond what may already be required in the SIP are not necessary, since section 182(a) of the Act specifically excludes marginal areas from these requirements.

The Act's section 172(c)(3) emissions inventory requirement has been met by the prior submission and approval of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1) of the Act.

As for the Act's section 172(c)(5) NSR requirement, EPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. The maintenance plan proposed for approval with this notice does demonstrate maintenance of the ozone standard without NSR. See memorandum from Mary Nichols,

Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment". The rationale for this view is described fully in that memorandum, and is based on EPA's authority to establish de minimis exceptions to statutory requirements. See, *Alabama Power Co. v. Costle*, 636 F. 2d 323, 360-61 (D.C. Cir. 1979).

Section 176 of the Act requires States to revise their SIP's to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State 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 of the Act further provides that the conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the Act 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 of the Act informed the State that its conformity regulations would establish a submittal date. See 57 FR 13498, 13557 (April 16, 1992). The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62118) and general conformity regulations on November 30, 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 40 CFR 51.396 of the transportation conformity rule and 40 CFR 51.851 of the general conformity rule, the State of Louisiana was 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, Louisiana was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994.

Louisiana submitted both its transportation and general conformity rules to EPA on November 10, 1994. Although this redesignation request was

submitted to EPA after the due dates for the SIP revisions for transportation conformity (58 FR 62188) and general conformity (58 FR 63214) rules, EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 107(d) of the Act. The rationale for this is based on a combination of two factors.

First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment. Therefore, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D of the Act, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting State rules does not relieve an area from the obligation to implement conformity requirements.

Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet adopted, EPA believes it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request.

Therefore, EPA has modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) of the Act concerning the applicable requirements for purposes of reviewing an ozone redesignation request. This modified policy is discussed in a memorandum entitled "Reasonable Further Progress; Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard", John S. Seitz, Director, Office of Air Quality Planning and Standards (OAQPS), dated May 10, 1995. Under this new policy, for the reasons just discussed, EPA believes that the ozone redesignation request for Calcasieu Parish may be approved notwithstanding the lack of approved state transportation and general conformity rules.

(b) Subpart 2 of Part D—Section 182(a) Requirements

The Act was amended on November 15, 1990, Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The EPA was required to classify ozone nonattainment areas according to the severity of their problem. The EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 182 of the Act. Below is a summary of how the area has met the requirements of section 182(a) of the Act.

The Act required an inventory of all actual emissions from all sources, as described in section 172(c)(3) of the Act by November 15, 1992. On November 16, 1992, LDEQ submitted an emission inventory for Calcasieu Parish. The EPA approved this 1990 base year inventory on March 15, 1995. To be redesignated, all SIP revisions required by section 182(a)(2)(A) and 182(b)(2) of the Act concerning RACT requirements must have been submitted to EPA and fully approved. Louisiana has met all RACT requirements. Section 182(a)(3) of the Act required a SIP submission by November 15, 1992, to require stationary sources of NOX and VOCs to provide statements of actual emissions. Louisiana submitted an annual emissions statement SIP revision on March 3, 1993. This revision was approved in the Federal Register on January 6, 1995.

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

Based on the approval of provisions under the pre-amended Act and EPA's prior approval of SIP revisions under the Act, EPA has determined that Calcasieu Parish has a fully approved SIP under section 110(k) of the Act, which also meets the applicable requirements of section 110 and part D of the Act as discussed above.

(4) Improvement in Air Quality Due to Permanent and Enforceable Measures

The EPA approved the Louisiana SIP control strategy for Calcasieu Parish, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. The control measures to which the emission reductions are attributed are VOC RACT regulations, the Federal Motor Vehicle Control Program (FMVCP), and lower Reid Vapor Pressure (RVP). In addition, the State permits program, the Prevention of Significant Deterioration permits program, and the Federal Operating Permits program will help counteract future emissions growth.

In association with its emission inventory discussed below, the State of

Louisiana has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the VOC emissions in the base year are not artificially low due to local economic downturn. The EPA finds that the combination of existing EPA-approved state and federal measures contribute to the permanence and enforceability of reduction in ambient ozone levels that have allowed the area to attain the NAAQS.

(5) Fully Approved Maintenance Plan Under Section 175A of the Act

Section 175A of the Act 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 document EPA is proposing approval of the maintenance plan for Calcasieu Parish because EPA finds that Louisiana's submittal meets the requirements of section 175A of the Act.

On December 20, 1995, the State of Louisiana submitted comprehensive inventories of VOCs, NO<sub>x</sub>, and CO emissions from Calcasieu Parish. The inventories include area, stationary, and mobile sources using 1993 as the base year for calculations to demonstrate maintenance. The 1993 inventory is

considered representative of attainment conditions because the NAAQS was not violated during 1993 and was one of the three years upon which the attainment demonstration was based. The EPA is proposing approval of the 1993 base year inventory in this document.

The State submittal contains the detailed inventory data and summaries by source category. Growth Projections were derived from the Bureau of Economic Analysis Factors, and were used to generate the growth projections for the emissions inventory. These factors were applied to the 1993 inventory to reflect the expected emission levels through 2010.

The following table is a summary of the revised average peak ozone season weekday VOC, NO<sub>x</sub>, and CO emissions for the major anthropogenic source categories for the 1993 attainment year inventory.

SUMMARY OF EMISSION PROJECTIONS FOR CALCASIEU PARISH  
[In Tons Per Day]

	1993	1995	2000	2005	2010
Point Source CO .....	27.35	26.93	26.80	26.22	25.79
Point Source VOC .....	35.87	35.18	35.30	34.42	33.54
Point Source NO <sub>x</sub> .....	106.96	104.94	103.81	102.41	101.05
Area Source CO .....	0.54	0.54	0.55	0.55	0.55
Area Source VOC .....	6.94	7.00	7.04	7.03	7.01
Area Source NO <sub>x</sub> .....	0.45	0.46	0.46	0.46	0.46
Nonroad CO .....	58.14	58.97	58.97	58.92	59.53
Nonroad VOC .....	9.81	9.95	9.95	9.94	9.91
Nonroad NO <sub>x</sub> .....	38.05	38.59	38.59	38.56	38.43
Onroad CO .....	89.82	85.51	70.60	63.85	67.19
Onroad VOC .....	9.22	8.77	7.96	7.78	8.21
Onroad NO <sub>x</sub> .....	17.93	17.72	16.31	15.67	16.53
Total CO .....	175.85	171.95	156.92	149.54	153.06
Total VOC .....	61.84	60.90	60.25	59.17	58.67
Total NO <sub>x</sub> .....	163.39	161.71	159.17	157.10	156.47

Continued attainment of the ozone NAAQS in Calcasieu Parish will depend, in part, on the Federal and State control measures discussed previously. However, the ambient air monitoring network will remain active during the maintenance period. These data will be quality assured and submitted to the Aerometric Information and Retrieval System (AIRS) on a monthly basis. A monitored violation of the ozone NAAQS will provide the basis for triggering measures contained in the contingency plans. Additionally, as discussed above, during year 8 of the maintenance period, the LDEQ is required to submit a revised plan to provide for maintenance of the ozone standard in Pointe Coupee for the next ten years.

Section 175A of the Act requires that a maintenance plan include contingency provisions, as necessary, to promptly

correct any violation of the NAAQS that occurs after redesignation of the area to attainment. The contingency plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify specific triggers which will be used to determine when the measures need to be implemented.

The LDEQ has selected new Control Techniques Guidelines or Alternative Control Technology rule implementation and NO<sub>x</sub> RACT as contingency measures in Calcasieu Parish. If at any time during the maintenance period Calcasieu Parish records a violation of the ozone NAAQS, LDEQ will evaluate the source(s) of that violation and promulgate either VOC or NO<sub>x</sub> RACT rules for the appropriate source

category. The LDEQ will adopt rules within 9 months of the violation, and affected sources must be in compliance with these rules within 2 years of the violation. These contingency measures and schedules for implementation satisfy the requirements of section 175A(d) of the Act.

In accordance with section 175A(b) of the Act, 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.

III. Interim Implementation Policy (IIP) Impact

On December 13, 1996, EPA published proposed revisions to the ozone and particulate matter NAAQS. Also on December 13, 1996, EPA published its proposed policy regarding

the interim implementation requirements for ozone and particulate matter during the time period following any promulgation of a revised ozone or particulate matter NAAQS (61 FR 65751). This IIP includes proposed policy regarding ozone redesignation actions submitted to and approved by EPA prior to promulgation of a new ozone standard, as well as those submitted prior to and approved by EPA after the promulgation date of a new or revised ozone standard.

Complete redesignation requests, submitted and approved by EPA prior to the promulgation date of the new or revised ozone standard, will be allowed to redesignate to attainment based on the maintenance plan's ability to demonstrate attainment of the current 1-hour standard and compliance with existing redesignation criteria. Any redesignation requests submitted prior to promulgation, which are not acted upon by EPA prior to that promulgation date, must then also include a maintenance plan which demonstrates attainment of both the current 1-hour standard and the new or revised ozone standard to be considered for redesignation.

As discussed previously, the Calcasieu Parish redesignation request demonstrates attainment under the current 1-hour ozone standard. Since the EPA plans to approve this request prior to the promulgation date of the new or revised ozone standard, The Calcasieu Parish redesignation request meets the proposed IIP.

#### IV. Proposed Action

The EPA has evaluated the State's redesignation request for Calcasieu Parish for consistency with the Act, EPA regulations, and EPA policy. The EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the ozone standard. In addition, EPA has determined that the redesignation request meets the requirements and policy set forth in the General Preamble and policy memorandum discussed in this notice for area redesignations, and today is proposing approval of Louisiana's redesignation request for Calcasieu Parish.

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.

#### IV. Administrative Requirements

##### A. Executive Order (E.O.) 12866

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

##### B. Regulatory Flexibility Act

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. See 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.

The SIP approvals under section 110 and subchapter I, part D of the Act 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

##### C. Unfunded Mandates

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

The EPA has determined that the proposed approval action will not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes approval of preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

##### D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this proposed approval in today's Federal Register. This proposal is not a "major rule" as defined by 5 U.S.C. 804(2).

##### E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 7, 1997. 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) of the Act.

##### List of Subjects

###### 40 CFR Part 52

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

###### 40 CFR Part 81

Air Pollution control, Designation of areas for air quality planning purposes.

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

Dated: January 24, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97-2998 Filed 2-5-97; 8:45 am]

BILLING CODE 6560-50-P