

eligibility to sources that do not meet the provisions of sections 507(c)(1)(C), (D), and (E) of the CAA, but do not emit more than 100 tpy of all regulated pollutants; and (3) a process for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the Department determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

Final Action

In this action, EPA is approving the PROGRAM SIP revision submitted by the State of South Carolina through the Department of Health and Environmental Control. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective April 25, 1995. However, if notice is received by March 27, 1995 someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent documents will be published before the effective date. One document will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 25, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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 CAA, 42 U.S.C. 7607 (b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

By today's action, the EPA is approving a State program created for the purpose of assisting small business stationary sources in complying with existing statutory and regulatory requirements. The program being approved today does not impose any new regulatory burden on small business stationary sources; it is a program under which small business stationary sources may elect to take advantage of assistance provided by the State. Therefore, because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

SIP approvals under 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 EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. Environmental Protection Agency*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: January 12, 1995.

Patrick M. Tobin,
Acting Regional Administrator.

Part 52 of chapter I, title 40, 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 PP—South Carolina

2. Section 52.2120 is amended by adding paragraph (c)(38) to read as follows:

§ 52.2120 Identification of plan.

* * * * *
(c) * * *

(38) The South Carolina Department of Health and Environmental Control has submitted revisions to the South Carolina Air Quality Implementation Plan on November 12, 1993. These revisions address the requirements of section 507 of title V of the Clean Air Act and establish the Small Business Stationary Source Technical and Environmental Program.

(i) Incorporation by reference.

(A) The submittal of the state of South Carolina's Small Business Assistance Program which was adopted on September 9, 1993.

(ii) Additional material. None.

[FR Doc. 95-4629 Filed 2-23-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 52 and 81

[FL56-1-6883a; FRL-5148-8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 8, 1993, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a maintenance plan and a request to redesignate the Southeast Florida area from moderate nonattainment to attainment for ozone (O₃). The Southeast Florida O₃ nonattainment area consists of Dade, Broward and Palm Beach Counties. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data are available to warrant such revisions and the CAA redesignation requirements are satisfied. In this action, EPA is approving Florida's request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is also approving the 1990 base year emission inventory for the Southeast Florida area. The approved maintenance plan will become a federally enforceable part of the State Implementation Plan (SIP) for the Southeast Florida area.

DATES: This final rule is effective April 25, 1995, unless adverse or critical comments are received by March 27, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air,

Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by the State of Florida may be examined during normal business hours at the following locations:

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 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555 ext.4215. Reference file FL56-1-6883.

SUPPLEMENTARY INFORMATION: The Clean Air Act, as amended in 1977 (1977 Act) required areas that were designated nonattainment based on a failure to meet the O₃ national ambient air quality standard (NAAQS) to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. The Miami-Fort Lauderdale-West Palm Beach area (Southeast Florida), comprised of Dade, Broward, and Palm Beach Counties, was designated under section 107 of the 1977 Act as nonattainment with respect to the O₃ NAAQS on March 3, 1978. (43 FR 8964, 40 CFR 81.310) In accordance with section 110 of the 1977 Act, the State submitted a part D O₃ SIP on April 30, 1979, which was supplemented on August 27, 1979, and January 23, 1980, which EPA conditionally approved on March 18, 1980, and fully approved on May 14, 1981, as meeting the requirements of section 110 and part D of the 1977 Act.

On November 15, 1990, the CAA Amendments of 1990 were enacted (1990 Amendments). (Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q) The nonattainment designation of Southeast Florida was continued by operation of law pursuant to section 107(d)(1)(C)(i) of the 1990 Amendments. Furthermore, it was classified by operation of law as moderate for O₃ according to section 181(a)(1). (See 56 FR 56694 (Nov. 6,

1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.310).

Southeast Florida more recently has ambient monitoring data that show no violations of the O₃ NAAQS, during the period 1990 through 1993. In addition, there have been no exceedences reported for the 1994 O₃ season. Therefore, in an effort to comply with the 1990 Amendments and to ensure continued attainment of the NAAQS, Florida submitted an O₃ maintenance SIP for the Southeast Florida area on November 8, 1993, and also requested redesignation of the area to attainment with respect to the O₃ NAAQS.

The 1990 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 relevant requirements under section 110 and part D of the CAA;
3. The area must have a fully approved SIP under section 110(k) of the 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.

The Florida redesignation request for the Southeast Florida 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 O₃ NAAQS

The Florida request is based on an analysis of quality assured O₃ air quality data which is relevant to the maintenance plan and to the redesignation request. The most recent ambient O₃ data for the calendar years 1990 through 1992 shows an exceedence rate of less than 1.0 per year of the O₃ NAAQS in the Southeast Florida area. (See 40 CFR 50.9 and appendix H). Because the Southeast Florida area has complete quality-assured data showing no violations of the standard over the most recent consecutive three calendar year period, the Southeast Florida area has met the first statutory criterion of attainment of the O₃ NAAQS. In addition, there have been no ambient air exceedences in 1993 or to date in 1994 for O₃. Florida 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

On May 14, 1981, EPA fully approved Florida's SIP for the Southeast Florida area as meeting the requirements of section 110(a)(2) and part D of the 1977 Act (46 FR 26640). The 1990 Amendments, however, 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. EPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation request to be approved, the state has met all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the CAA that come due subsequently continue to be applicable at those later dates (see section 175A(c)) and, if the redesignation is disapproved, the state remains obligated to fulfill those requirements.

A. Section 110 Requirements

Although section 110 was amended by the 1990 Amendments, the Southeast Florida SIP meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. As to those requirements that were amended, (see 57 FR 27936 and 23939, June 23, 1993), many are duplicative of other requirements of the CAA. 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 Southeast Florida 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 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). The Southeast Florida area was classified as moderate (See 56 FR 56694, codified at 40 CFR

81.530). 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 is subject to requirements of subpart 2 of part D.

B.1. Subpart 1 of Part D—Section 172(c) Plan Provisions

Under section 172(b), the Administrator established that States containing nonattainment areas shall submit a plan or plan revision meeting the applicable requirements of section 172(c) no later than three years after an area is designated as nonattainment, i.e., unless EPA establishes an earlier date. EPA has determined that the section 172(c)(2) reasonable further progress (RFP) requirement (with parallel requirements for a moderate ozone nonattainment area under subpart 2 of part D, due November 15, 1993) was not applicable as the State of Florida submitted this redesignation request on November 8, 1993. Also the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures (RACTM) beyond what may already be required in the SIP are no longer necessary, since no earlier date was set for these measures and as RFP was not due until November 15, 1993.

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

As for the 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. 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 the Agency'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). As discussed below, the State of Florida has demonstrated that the Southeast Florida area will be able to maintain the standard without part D NSR in effect and, therefore, the State need not have a fully-approved part D NSR program prior to approval of the redesignation request for Southeast Florida.

Finally, for purposes of redesignation, the Southeast Florida SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, EPA believes the SIP satisfies all of those requirements.

B.2. Subpart 1 of Part D—Section 176 Conformity Plan Provisions

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 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 further provides that the conformity revisions to be submitted by the 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 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 CAA section 175A. Pursuant to 40 CFR 51.396 of the transportation conformity rule and 40 CFR 51.851 of the general conformity rule, the State of Florida 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, the State of Florida 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 did not come due until after the submission of the redesignation request for Southeast Florida, they are not applicable requirements under section 107(d)(3)(E)(v) and, therefore, do not

affect the approval of this redesignation request.

B.3. Subpart 2 of Part D—Section 182(a) and 182(b) Requirements

Southeast Florida is a moderate ozone nonattainment area. Under subpart 2 of part D, such areas must meet the requirements for marginal areas under section 182(a)(1) as well as the requirements for moderate areas contained in section 182(b). As discussed above, for purposes of this redesignation, the Southeast Florida area need only meet those requirements of section 182(a) and (b) that came due prior to or at the time of the submittal of a complete redesignation request (which was November 8, 1993, in this instance). Section 182(b)(1) of the CAA required states to submit a revision to the SIP by November 15, 1993, to provide for volatile organic compound (VOC) emission reductions by November 15, 1996, of at least 15% from baseline emissions accounting for any growth in emissions after the date of enactment of the CAA. The State failed to submit the required revisions and as a result, on January 28, 1994, EPA issued a finding letter notifying Florida of a finding of failure to submit. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the Federal Implementation Plan (FIP) 15% regulations for this area as required by section 110(c)(1). However, the letter acknowledges the submittal of this redesignation request to attainment and stated that if the redesignation request to attainment is approved then requirements for a 15% plan SIP will be unnecessary for the Southeast Florida area. Therefore, upon approval of this redesignation request, the sanctions and FIP clocks will stop. As the requirement to submit a 15% plan did not come due until November 15, 1993, the 15% plan requirement is not an applicable requirement for purposes of the evaluation of this redesignation request. EPA has analyzed the SIP and determined that Florida has met all applicable 182(a) and (b) requirements for redesignation.

a. Emissions Inventory

Section 182(a)(1) of the CAA required an inventory of all actual emissions from all sources to be submitted by November 15, 1992. As described below, the State has submitted such an

inventory, and EPA is approving that inventory with this action.

b. Reasonably Available Control Technology

To be redesignated, all SIP revisions required by section 182(a)(2)(A) and 182(b)(2) concerning RACT requirements must have been submitted to EPA and fully approved. Florida has met all RACT requirements except for categories that do not have an approved control technique guideline (CTG). Florida's non-CTG RACT rule was submitted on January 8, 1993. This rule is being acted on in a separate document and final action will be taken prior to this redesignation becoming final.

c. Emissions Statements

Section 182(a)(3) of the CAA required a SIP submission by November 15, 1992, to require stationary sources of NO_x and VOCs provide statements of actual emissions. Florida submitted an annual emissions statement SIP revision on November 13, 1992. This revision was approved in the **Federal Register** on August 4, 1994.

d. New Source Review

As explained above, EPA has determined that areas need not comply with the part D NSR requirements of the CAA in order to be redesignated provided that the area is able to demonstrate maintenance without part D NSR in effect. As maintenance has been demonstrated for the Southeast Florida area, EPA is not requiring that the area have a fully-approved part D NSR plan meeting the requirements of sections 182 (a) and (b) prior to redesignation.

e. Motor Vehicle Inspection and Maintenance (I/M)

The Southeast Florida area has an approved I/M program that meets the requirements of the CAA. Furthermore, the area meets the requirements for areas redesignating, i.e., the State has legal authority for I/M and the contingency plan includes enhanced I/M which more than meets the requirement for a contingency measure to be an upgraded I/M program.

f. Stage II

Section 182(b)(3) of the CAA required moderate areas to implement Stage II

gasoline vapor recovery systems unless and until EPA promulgated onboard vapor recovery regulations. On January 24, 1994, EPA promulgated the onboard rule. As section 202(a)(6) of the CAA provides that once the rule is promulgated, moderate areas are no longer required to implement Stage II, the Stage II vapor recovery requirement is no longer an applicable requirement. However, Stage II vapor recovery has been approved and implemented in the Southeast Florida area.

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

Based on the approval of provisions under the pre-amended CAA and EPA's prior approval of SIP revisions under the 1990 Amendments, EPA has determined that the Southeast Florida 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

Under the pre-amended CAA, EPA approved the Florida SIP control strategy for the Southeast Florida nonattainment area, 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). VOC emissions were reduced by 9% in 1990 due to VOC RACT. The FMVCP reduced VOC emissions from motor vehicles by 54% from 1980 to 1990. The reduction in RVP from 11.5 psi in 1985 to 7.8 psi in 1992 has reduced summertime VOC mobile source emissions by 32%.

In association with its emission inventory discussed below, the State of Florida 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. EPA finds that the combination of existing EPA-approved state and federal measures contribute to the permanence and enforceability of

reduction in ambient O₃ 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 document, EPA is approving the State of Florida's maintenance plan for the Southeast Florida area because EPA finds that Florida's submittal meets the requirements of section 175A.

A. Emissions Inventory—Base Year Inventory

On November 16, 1992, the State of Florida submitted comprehensive inventories of VOC, NO_x, and CO emissions from the Southeast Florida area. The inventories include biogenic, area, stationary, and mobile sources using 1990 as the base year for calculations to demonstrate maintenance. The 1990 inventory is considered representative of attainment conditions because the NAAQS was not violated during 1990. EPA is approving the 1990 base year inventory in this action.

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 NEDS format. Finally, this inventory was prepared in accordance with EPA guidance. It also contains summary tables of the base year and projected maintenance year inventories. EPA's TSD contains more in-depth details regarding the base year inventory for the Southeast Florida area.

VOC EMISSIONS INVENTORY SUMMARY
[Tons per day]

	1990	1994	1997	2000	2005
Stationary Point	29.43	31.57	27.33	24.34	24.26
Stationary Area	295.21	280.90	230.48	232.17	220.50
On-Road Mobile	336.64	206.83	189.86	176.74	170.25

VOC EMISSIONS INVENTORY SUMMARY—Continued

[Tons per day]

	1990	1994	1997	2000	2005
Non-Road Mobile	128.98	134.81	142.87	149.79	158.35
Biogenic	325.33	325.33	325.33	325.33	325.33
Total	1115.59	979.44	915.87	908.37	898.69

NO_x EMISSIONS INVENTORY SUMMARY

[Tons per day]

	1990	1994	1997	2000	2005
Stationary Point	180.34	183.92	150.88	151.66	151.70
Stationary Area	17.10	17.97	18.81	19.38	20.23
On-Road Mobile	254.48	239.70	230.79	220.26	214.34
Non-Road Mobile	93.85	98.47	104.42	109.60	118.85
Total	545.77	540.06	504.90	500.90	505.12

CO EMISSIONS INVENTORY SUMMARY

[Tons per day]

	1990
Stationary Point	26.82
Stationary Area	182.53
On-Road Mobile	2565.60
Non-Road Mobile	837.80
Total	3612.75

*B. Demonstration of Maintenance—
Projected Inventories*

Total VOC and NO_x emissions were projected from 1990 base year out to 2005, with interim years of 1994, 1997, and 2000. These projected inventories were prepared in accordance with EPA guidance. The projections show that VOC and NO_x emissions are not expected to exceed the level of the base year inventory during this time period.

C. Verification of Continued Attainment

Continued attainment of the O₃ NAAQS in the Southeast Florida 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 submitting periodic inventories of VOC and NO_x emissions every three years. The contingency plan for the Southeast Florida area is triggered by two indicators, a violation of the O₃ NAAQS or a periodic inventory update that shows emissions of VOCs have increased by at least five percent above the 1990 levels.

D. Contingency Plan

The level of VOC emissions in the Southeast Florida area will largely determine its ability to stay in compliance with the O₃ 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. Therefore, Florida has provided contingency measures with a schedule for implementation in the event of a future O₃ air quality problem. In the case of a violation of the O₃ NAAQS, the plan contains a contingency to implement additional control measures such as reinstatement of NSR, less volatile or reformulated gasoline, expansion of control strategies to adjacent counties for VOC and/or NO_x and to new CTG categories, and an enhanced vehicle emissions inspection program. A complete description of these contingency measures and their triggers can be found in the State's submittal. 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

In this action, EPA is approving the Southeast Florida area O₃ maintenance plan submitted on November 8, 1993, because it meets the requirements of section 175A. In addition, the Agency is approving the request and redesignating the Southeast Florida nonattainment area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. This action stops the sanctions and federal implementation plan clocks that were triggered for the

Southeast Florida area by the January 28, 1994, findings letter. 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 April 25, 1995 unless, within 30 days of its publication, by March 27, 1995, 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 April 25, 1995.

The O₃ SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the O₃ NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the VOC or NO_x emission limitations and restrictions contained in the approved O₃ SIP. Changes to O₃ SIP VOC 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 173(b) of the CAA) and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the CAA.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 25, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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, 42 U.S.C. 7607(b)(2).)

The OMB has exempted this action from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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 economic 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 small entities. 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 EPA to base its actions concerning SIPs on such grounds.

Union Electric Co. v. U.S. E.P.A., 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: January 24, 1995.

Patrick M. Tobin,
Acting Regional Administrator.

Chapter I, title 40, 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 K—Florida

2. Section 52.520 is amended by adding paragraph (c)(86) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(86) The maintenance plan for Southeast Florida submitted by the Florida Department of Environmental Protection on November 8, 1993, as part of the Florida SIP.

(i) Incorporation by reference.

(A) Southeast Florida Ozone Ten Year Maintenance Plan including Emissions Inventory Summary and Projections effective on November 8, 1993.

(ii) Other material. None.

* * * * *

PART 81—[AMENDED]

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

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

2. In § 81.310 the attainment status table for "Florida-Ozone" is revised to read as follows:

§ 81.310 Florida.

* * * * *

FLORIDA—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Tampa-St. Petersburg-Clearwater Area:				
Hillsborough County .....	.....	Nonattainment .....	.....	Marginal.
Pinellas County .....	.....	Nonattainment .....	.....	Marginal.
Rest of State .....	.....	Unclassifiable/ Attainment.	.	
Alachua County				
Baker County				
Bay County				
Bradford County				
Brevard County				
Broward County	April 25, 1995.			
Calhoun County				
Charlotte County				
Citrus County				
Clay County				
Collier County				
Columbia County				
Dade County	April 25, 1995.			
De Soto County				
Dixie County				
Duval County	March 6, 1995.			

FLORIDA—OZONE—Continued

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Escambia County				
Flagler County				
Franklin County				
Gadsden County				
Gilchrist County				
Glades County				
Gulf County				
Hamilton County				
Hardee County				
Hendry County				
Hernando County				
Highlands County				
Holmes County				
Indian River County				
Jackson County				
Jefferson County				
Lafayette County				
Lake County				
Lee County				
Leon County				
Levy County				
Liberty County				
Madison County				
Manatee County				
Marion County				
Martin County				
Monroe County				
Nassau County				
Okaloosa County				
Okeechobee County				
Orange County				
Osceola County				
Palm Beach County	April 25, 1995.			
Pasco County				
Polk County				
Putnam County				
Santa Rosa County				
Sarasota County				
Seminole County				
St. Johns County				
St. Lucie County				
Sumter County				
Suwannee County				
Taylor County				
Union County				
Volusia County				
Wakulla County				
Walton County				
Washington County				

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

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 [FR Doc. 95-4537 Filed 2-23-95; 8:45 am]
 BILLING CODE 6560-50-P

40 CFR Part 281

[FRL-5161-3]

Final Approval of State Underground Storage Tank Program; Arkansas

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on State of Arkansas application for final approval.

SUMMARY: The State of Arkansas has applied for final approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Arkansas application and determined, subject to public review and comment, that the Arkansas underground storage tank program satisfies all of the requirements

necessary to qualify for final approval. Thus, EPA is granting approval to the State to operate its program unless adverse public comment shows the need for further review. The Arkansas application for final approval is available for public review and comment.

EFFECTIVE DATE: Final authorization for the Arkansas underground storage tank program shall be effective at 1:00 p.m. on April 25, 1995 unless EPA publishes a prior **Federal Register** action withdrawing this final rule. All comments on the Arkansas final