• Adding recordkeeping requirements.

• Adding a ''burden of proof'' requirement for exemptions.

BAAQMD Rule 8–42, Large Commercial Bakeries, is a new rule which was adopted to control emissions of VOCs from large commercial bread bakeries. However, Rule 8–42 has been in effect in the Bay Area since 1989. The rule requires:

• All ovens to be vented to an emission control system.

• Sources to maintain records of the emissions control system's key operating parameters on a daily basis.

• Sources claiming exemptions to provide the necessary information to substantiate the exemption.

• Sources to use district method ST–32 for determination of emissions.

• The use of an emissions factor table for calculation of emissions.

BAAQMD Rule 8–50, Polyester Resin Operations, is a new rule which limits the emission of VOCs from polyester resin operations. The rule provides the following:

• Standards which affect the application and curing of resin, gel coat application and curing, and clean-up solvents.

• Standards for resins and gel coats are not applicable to polyester resin operations that choose to install and operate emission control equipment.

• Storage requirements for surface preparation and clean-up solvents.

• Recordkeeping requirements and test methods.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, the BAAQMD's Rule 8–25, Pump and Compressor Seals at Petroleum Refineries, Chemical Plants, Bulk Plants, and Bulk Terminals; Rule 8–42, Large Commercial Bakeries; and Rule 8–50, Polyester Resin Operations are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. The final action on these rules serves as a final determination that any deficiencies in these rules noted in prior proposed rulemakings have been corrected.

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

EPA is publishing this document 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 May 8, 1995, unless, by April 6, 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 May 8, 1995.

Regulatory Process

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 population of less than 50,000.

SIP approvals under sections 110 and 301(a) 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. *U.S. E.P.A.*, 427 U.S. 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 10, 1995.

Felicia Marcus,

Regional Administrator.

Subpart F of 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 F—California

2. Section 52.220 is amended by adding paragraph (c)(199)(i)(A)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(199) * * *

(i) * * *

(A) * * *

(*3*) Rules 8–25 and 8–42, adopted on June 1, 1994 and Rule 8–50, adopted on June 15, 1994.

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[FR Doc. 95–5348 Filed 3–6–95; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Parts 52 and 81

[TX–53–1–6843a; FRL–5163–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Texas; Approval of the Maintenance Plan for Victoria County and Redesignation of the Victoria County Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 27, 1994 the State of Texas submitted a maintenance plan and a request to redesignate the Victoria County, Texas ozone nonattainment area to attainment. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is approving Texas' redesignation request because it meets the maintenance plan and redesignation

requirements set forth in the CAA and EPA is approving the 1992 base year emissions inventory. The approved maintenance plan will become a federally enforceable part of the State Implementation Plan (SIP) for Victoria County, Texas.

DATES: This final rule is effective on May 8, 1995, unless notice is received by April 6, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSES: Comments should be mailed to Guy R. Donaldson, Acting Chief, Air Planning Section (6T–AP), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, P.O. Box 13087, Austin, Texas 78711–3087.

Anyone wishing to review this petition at the U.S. EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Planning Section (6T–AP), Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

Background

The CAA, as amended in 1977 required areas that were designated nonattainment based on a failure to meet the ozone national ambient air quality standard (NAAQS) to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. Victoria County, Texas was designated under section 107 of the 1977 CAA as nonattainment with respect to the ozone NAAQS on March 3, 1978 (40 CFR 81.344). In accordance with section 110 of the 1977 CAA, the State of Texas submitted an ozone SIP as required by part D on April 13, 1979. EPA fully approved this ozone SIP on March 25, 1980 (45 FR 19244), and August 13, 1984 (49 FR 32190).

On November 15, 1990, the CAA Amendments of 1990 were enacted (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The ozone nonattainment designation for Victoria County continued by operation of law according to section 107(d)(1)(C)(i) of the CAA, as amended in 1990 (See 56 FR 56694, November 6, 1991). Since the State had not yet collected the required three years of ambient air quality data necessary to petition for redesignation to attainment, the nonattainment area was further designated as nonclassifiable-incomplete data for ozone.

The Texas Natural Resource Conservation Commission (TNRCC) more recently has collected ambient monitoring data that show no violations of the ozone National Ambient Air Quality Standard (NAAQS) of .12 parts per million. The State developed a maintenance plan for Victoria County, and solicited public comment during a public hearing on July 7, 1994. Accordingly, on July 27, 1994, Texas requested redesignation of the area to attainment with respect to the ozone NAAQS and submitted an ozone maintenance SIP for Victoria County. Please see the TSD for the detailed air quality monitoring data.

Evaluation Criteria

The 1990 Amendments 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 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. Section 107(d)(3)(D) allows a Governor to initiate the redesignation process for an area to apply for attainment status. Please see EPA's Technical Support Document (TSD) for a detailed discussion of these requirements.

(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 Texas' 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. The request is based on ambient air ozone monitoring data collected for 36 consecutive months from May 3, 1991, through May 2, 1994, encompassing 3 valid ozone seasons (1991–1993). The data clearly show an expected exceedance rate of zero for the ozone standard.

Appendix H does not explicitly address the situation where a new site collects data for only a portion of the calendar year. However, this situation has been addressed in an EPA memorandum, ''Ozone and Carbon Monoxide Design Value Calculations,'' William Laxton, Director, Technical Support Division, OAQPS, June 18, 1990 (Laxton memo). The missing data penalty created by the calculation is designed to encourage prompt repair or replacement of monitors, rather than to discourage air pollution control agencies from installing new monitoring sites in excess of the number required by 40 CFR part 58. For this reason, the Laxton memo essentially allows an agency which installs a monitoring site to base the estimated exceedance calculation for the initial year on the portion of the year following start-up of the monitor. Based on the underlying reasoning of the Laxton memo and the fact that there were no exceedances at the monitoring site during the peak ozone season of May through September for the 3-year monitoring period, EPA accepted the data as an adequate demonstration that the ozone standard was attained in Victoria County.

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 TNRCC fulfilled these requirements to complete documentation for the air quality demonstration. The TNRCC has also

committed to continue monitoring in this area in accordance with 40 CFR part 58.

In sum, EPA believes that the data submitted by the TNRCC provides an adequate demonstration that Victoria County attained the ozone NAAQS. Moreover, the monitoring data continue to show attainment in 1994 and in 1995 to date.

If the monitoring data records a violation of the NAAQS before the direct final action is effective, the direct final approval of the redesignation will be withdrawn and a proposed disapproval substituted for the direct final approval.

(2) Section 110 Requirements

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 CAA prior to or at the time the State submitted its redesignation request, as set forth in EPA policy. EPA interprets section 107(d)(3)(E)(v) of the CAA 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. Requirements of the CAA that come due subsequently continue to be applicable to the area at later dates (see section 175A(c)) 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.

EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2). 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.

(3) Additional Section 110 and Part D Requirements

The TNRCC submitted a SIP revision entitled ''Revisions to Texas Regulation V and the General Rules to Meet Reasonably Available Control Technology Requirements'' (Texas RACT Catch-up and Victoria County Fix-up). This SIP revision contains certain recordkeeping and monitoring requirements necessary for Victoria County to have a fully-approved SIP under section 110. The EPA is approving the Texas RACT Catch-up and Victoria County Fix-up SIP revisions together in a separate action concurrent with this Victoria County redesignation request. The Texas RACT Catch-up and Victoria County Fix-up direct final approval notice is located in the final rules section of this Federal Register. If adverse or critical comments are received on the Texas RACT Catch-up and Victoria County Fix-up action, the notice will be converted from a direct final action to a proposal and those comments addressed in a subsequent final action. In such a case, the Victoria County redesignation direct final action will be converted to a proposal as well. As discussed earlier in this document, all of the SIP requirements must be met by the TNRCC and approved by EPA into the SIP prior to or concurrent with final action on the redesignation request.

Before Victoria County can be redesignated to attainment, it also must have fulfilled the applicable requirements of part D of the CAA. 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). Since Victoria County is considered nonclassifiable, the State is only required to meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176.

Section 172(c)(1) requires the implementation of all reasonably available control technology (RACT) as expeditiously as possible. The State of Texas has adopted VOC RACT rules under the following general categories: General Volatile Organic Compound Sources, Volatile Organic Compound Transfer Operations, Petroleum Refining and Petrochemical Processes, Solvent-Using Processes, Miscellaneous Industrial Sources, Consumer-Related Sources, and Administrative Provisions. Incomplete/no data areas such as Victoria County must correct any RACT deficiencies regarding the enforceability of existing rules in order to be redesignated to attainment. To this end, certain monitoring, recordkeeping, and reporting requirements are being revised to improve the enforceability of RACT in Victoria County in the concurrent action discussed above. With the approval of these revisions the requirements of section 172(c)(1) are fully met for Victoria County.

Section 172(c)(2) lists requirements for a demonstration of reasonable further progress (RFP). An RFP demonstration assumes a long nonattainment period or a large amount of reductions required to attain the standard. Because Victoria County is already in attainment, EPA considers Federal measures, such as the Federal Motor Vehicle Control Program and Reid Vapor Pressure requirement, sufficient to meet the RFP requirement. See the General Preamble for the Implementation of Title I (57 FR 13498, 13525–26, 13564).

Section 172(c)(3) requires an emissions inventory as part of an area's attainment demonstration. The emissions inventory requirement has been met by the submission and approval with this action of the 1992 inventory for Victoria County.

Section 172(c)(9) requires that contingency measures be developed should an area fail to meet the reasonable further progress requirement. As explained in the General Preamble (57 FR 13525), EPA believed it not appropriate to apply this requirement to incomplete/no data areas such as Victoria County. Moreover, since Victoria County has met the RFP requirement, and has demonstrated attainment through air monitoring data, the contingency measures requirement of section 172(c)(9) no longer applies (57 FR 13564). Thus, the State is not required to submit section 172(c)(9) contingency measures for Victoria County to be redesignated.

Section 172(c)(5) requires the development of a New Source Review (NSR) Program. Although Texas has had an NSR program, revisions required by the 1990 Act have not been approved by EPA. Texas, therefore, does not currently have a fully approved NSR program. However, in an October 14, 1994 memo from Mary D. Nichols, Assistant Administrator for Air and

Radiation, entitled ''Part D New Source Review (part D NSR) Requirements for Areas Redesignating to Attainment'' (NSR memo), EPA amended one aspect of the redesignation guidance by removing the requirement that an area have an approved NSR program prior to the area requesting redesignation to attainment. The NSR memo explained that EPA now believes that a *de minimis* exception to the requirement of section 107(d)(3)(E) for an approved part D NSR program is justifiable in certain cases where the adoption and full approval of a part D NSR program as a prerequisite to redesignation would not be of significant environmental value. Once an area has been redesignated to attainment, a part D NSR program must be replaced by the Prevention of Significant Deterioration (PSD) program. Victoria County's maintenance plan demonstrates maintenance without the use of the NSR program; therefore, EPA does not require the part D NSR program to be approved prior to approval of this redesignation request. Please see the TSD for a copy of the NSR memo.

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 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 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 Texas 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, Texas 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. Texas submitted its transportation conformity rules to EPA on November 6, 1994. The State's general conformity rules were submitted to EPA on November 22, 1994. As these requirements did not come due until after the submission date of the redesignation request, these conformity rule submissions need not be approved prior to taking action on this redesignation request.

The EPA recently published additional guidance on maintenance plans and their applicability to conformity issues in a memorandum entitled ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas,'' (limited maintenance plan memo) from Sally L. Shaver, Director, Air Quality Strategies & Standards Division, on November 16, 1994. This limited maintenance plan memo discusses maintenance requirements for certain areas petitioning for redesignation to attainment. Nonclassifiable ozone nonattainment areas with design values less than 85% of the exceedance level of the ozone standard are no longer required to project emissions over the maintenance period.

The Federal transportation conformity rule (58 FR 62188) and the Federal general conformity rule (58 FR 63214) apply to areas operating under maintenance plans. Under either rule, one means by which a maintenance area can demonstrate conformity for Federal projects is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Based on guidance discussed in the limited maintenance plan memo, emissions inventories in areas that qualify for the limited maintenance plan approach are not required to be projected over the life of the maintenance plan. EPA feels it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the NAAQS would occur. Emissions budgets in limited maintenance plan areas would be treated as essentially not constraining emissions growth, and would not need to be capped for the maintenance period. In these cases, Federal projects subject to conformity determinations could be considered to satisfy the ''budget test'' of the Federal conformity rules.

(3) Fully Approved SIP

The EPA finds that, upon approval of the Texas RACT Catch-up and Victoria County Fix-up SIP revisions, the State of Texas will have a fully approved SIP for Victoria County.

(4) Permanent and Enforceable Measures

Under the CAA, EPA approved Texas' SIP control strategy for the Victoria County nonattainment area, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. Several Federal and Statewide rules are in place which have significantly improved the ambient air quality in Victoria County. Existing Federal programs, such as the Federal Motor Vehicle Control Program and the Reid Vapor Pressure (RVP) limit of 7.8 pounds per square inch for gasoline in Victoria County, will not be lifted upon redesignation. These programs will counteract emissions growth as the county experiences economic growth over the life of the maintenance plan.

The State adopted VOC rules such as degreasing and solvent clean-up processes; surface coating rules for large appliances, furniture, coils, paper, fabric, vinyl, cans, miscellaneous metal parts and products, and factory surface coating of flat wood paneling; solvent-using rules for graphic arts, and miscellaneous industrial source rules such as for cutback asphalt. The applicable RACT rules will also remain in place in Victoria County. In addition, the State permits program, the PSD permits program, and the Federal Operating Permits program will help counteract emissions growth.

The EPA finds that the combination of existing EPA-approved SIP and Federal measures ensure the permanence and enforceability of reductions in ambient ozone levels that have allowed the area to attain the NAAQS.

(5) Fully Approved Maintenance Plan Under Section 175A

In today's document, EPA is approving the State's maintenance plan for Victoria County because EPA finds that the TNRCC's submittal meets the requirements of section 175A. Thus, the Victoria County nonattainment area will have a fully approved maintenance plan in accordance with section 175A as of the effective date of this redesignation. 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 that attainment will continue to be maintained 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. Each of the section 175A plan requirements is discussed below.

Demonstration of Maintenance

The requirements for an area to redesignate to attainment are discussed in the memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memo). One aspect of a complete maintenance demonstration discussed in the Calcagni memo is the requirement to develop an emission inventory from one of the three years during which the area has demonstrated attainment. This inventory should include volatile organic compounds (VOC), oxides of nitrogen (NO_X), and CO emissions from the area in tons per day measurements. In addition to the Calcagni memo, more recent guidance on the redesignation of certain nonattainment areas to attainment is provided in the limited maintenance plan memo.

Attainment Inventory

The TNRCC adopted comprehensive inventories of VOC, NO_X, and CO emissions from area, stationary, and mobile sources using 1992 as the base year to demonstrate maintenance of the ozone NAAQS. EPA has determined that 1992 is an appropriate year on which to base attainment level emissions because EPA policy allows States to select any one of the three years in the attainment period as the attainment year inventory. The State submittal contains the detailed inventory data and summaries by source category.

The TNRCC provided the stationary source estimates for each company meeting the emissions criteria by requiring the submission of complete emission inventory questionnaires which had been designed to obtain site-specific data. The TNRCC generated area source emissions for each source category based on EPA's ''Procedures for the Preparation of Emissions Inventories for Precursors of Carbon Monoxide and Ozone, Volume I'', and the EPA document entitled ''Compilation of Air Pollutant Emission Factors''. The non-road mobile source inventory was developed using methodology recommended in EPA's ''Procedures for Emission Inventory Preparation. Volume IV: Mobile Sources''. Additional data was provided with reference to an EPA-sponsored study entitled ''Nonroad Engine Emission Inventories for CO and Ozone Nonattainment Boundaries.'' On-road emissions of VOC, NO_X, and CO were calculated on a county-wide basis using EPA's MOBILE5a computer model. The biogenic emissions were calculated using the EPA software package entitled PC-BEIS. This package yields results in U.S. short tons per day (daily emissions only).

In the limited maintenance plan memo, EPA set forth new guidance on maintenance plan requirements for certain ozone nonattainment areas. The limited maintenance plan memo identified criteria through which certain nonclassifiable ozone nonattainment areas could choose to submit less rigorous maintenance plans. As mentioned earlier, the method for calculating design values is presented in the June 18, 1990 memorandum, ''Ozone and Carbon Monoxide Design Value Calculations,'' from William G. Laxton, former Director of the Office of Air Quality Planning and Standards Technical Support Division. Nonclassifiable ozone nonattainment areas whose design values are calculated at or below 0.106 parts per million (ppm) at the time of redesignation, are no longer required to project emissions over the maintenance period. The 0.106 ppm represents 85% of the ozone exceedance level of 0.125 ppm. As explained in the November 16, 1994 limited maintenance plan memo, the EPA believes if an area begins the maintenance period at or below 85% of the ozone exceedance level of the NAAQS, the existing Federal and SIP control measures, along with the PSD program, will be adequate to assure maintenance of the ozone NAAQS in the area. Victoria County has a calculated design value of 0.100 ppm. In light of that, and the lack of any recent history of violations of the ozone NAAQS, EPA believes that it is reasonable to conclude that the combination of the RACT measures in the SIP, the Federal Motor Vehicle Control Program, the RVP limit of 7.8 pounds per square inch, and the applicability of preconstruction review in accordance with the PSD requirements of part C of Title I, provides adequate assurance that the ozone NAAQS will be maintained. Thus, the EPA believes Victoria County qualifies for the limited maintenance plan approach.

The following is a table of the revised average peak ozone season weekday VOC and NO_X emissions for the biogenic and major anthropogenic source categories for the 1992 attainment year inventory.

SUMMARY OF VOC EMISSIONS

Source category	Tons per year	Tons per day
Point Sources	2180.10	5.97
Area Sources	1940.41	6.04
Non-Road Mobile Sources	962.24	3.55
On-Road Mobile Sources*	.....	4.44
Biogenic Sources*	.....	26.32
Total*	.....	46.32

*Tons per year calculations were not submitted for these categories.

SUMMARY OF NO_X Emissions

Source category	Tons per year	Tons per day
Point Sources	13339.91	36.55
Area Sources	206.73	0.35
Non-Road Mobile Sources	985.47	3.31
On-Road Mobile Sources*	.....	8.01
Biogenic Sources*	.....	.....
Total*	.....	48.22

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The attainment inventory submitted by TNRCC for Victoria County meets the redesignation requirements as discussed in the Calcagni memo and limited maintenance plan memo. Therefore, the EPA is today approving the emissions inventory component of the maintenance plan for Victoria County.

Continued Attainment

Continued attainment of the ozone NAAQS in Victoria County will depend, in part, on the Federal and State control measures discussed previously. However, the ambient air monitoring site will remain active at its present location during the entire length of the maintenance period. This data will be quality assured and submitted to the Aerometric Information and Retrieval System (AIRS) on a monthly basis. As

discussed in the limited maintenance plan memo, certain monitored ozone levels will provide the basis for triggering measures contained in the contingency plan. Additionally, as discussed above, during year 8 of the maintenance period, TNRCC is required to submit a revised plan to provide for maintenance of the ozone standard in Victoria County for the next ten years.

Contingency Plan

Section 175A of the CAA 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 TNRCC has selected Stage I vapor control as its contingency measure. At any time during the maintenance period, if the Victoria County air quality monitor records a third exceedance of the ozone NAAQS within any consecutive three-year period (a level below the NAAQS), the TNRCC will promulgate a rule change to implement Stage I gasoline controls in Victoria County. This rule will be submitted to EPA within 6 months of the third exceedance. The compliance date for applicable sources in Victoria County will be 6 months after TNRCC adopts the rule change. This contingency measure and schedule satisfies the requirements of section 175A(d).

In addition, the State has adopted several voluntary measures that, although not enforceable and therefore not contingency measures that could satisfy section 175A, are expected to contribute to the maintenance of air quality. The triggers for the voluntary measures, with the exception of the emissions projection measure, are at ozone levels below the standard, to allow the State to take early action to address a possible violation of the NAAQS before it occurs. The following trigger levels would activate measures: The ozone design value equals or exceeds 85% of the exceedance level of the ozone NAAQS, or 0.106 ppm; or the monitor shows one to four exceedances of the ozone NAAQS during any consecutive three-year period.

If the design value of Victoria County exceeds .106 ppm at any time during the maintenance period, Victoria County officials will establish a voluntary ozone advisory program. The TNRCC will coordinate the dissemination of information to the county with respect to ozone advisory predictions, voluntary compliance measures on ozone advisory days, and public notification. The ozone advisory program will be functional within 6 months of notification by the TNRCC that the ozone design value for Victoria County has reached the trigger level.

If the monitor records an exceedance of the ozone NAAQS, Victoria County officials will establish a formal ozone advisory program. This formal program will be staffed sufficiently to operate the program on a daily basis during the peak ozone season (May 1–September 30). The formal program will be staffed and functional within 6 months of notification by TNRCC that the trigger level has been reached.

If the monitor records a second exceedance of the ozone NAAQS during any consecutive three-year period, the newly-formed ozone advisory board will institute a voluntary program with area industry to reschedule, revise, or curtail activities for the ozone advisory days. This program will be developed and available for use within 30 days after notification by the TNRCC that this contingency measure will be required.

If Victoria County should violate the ozone NAAQS (4 exceedances during any consecutive three-year period) during the maintenance period, the TNRCC will require an additional voluntary measure to be implemented within one year of a violation of the ozone NAAQS. A complete description of these voluntary measures and their triggers can be found in the State's submittal. Although these voluntary measures do not qualify as contingency measures under section 175A, EPA is hereby approving them under section 110 for whatever strengthening effect they may have on the SIP.

Final Action

The EPA has evaluated the State's redesignation request for Victoria County, Texas, for consistency with the CAA, EPA regulations, and EPA policy. The EPA believes that, with the concurrent approval of the Texas RACT Catch-up and Victoria County Fix-up submission, the redesignation request and monitoring data demonstrate that Victoria County, Texas, has attained the ozone standard. In addition, the EPA has determined that, with the concurrent approval of the Texas RACT Catch-up and Victoria County Fix-up submission, 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 approving Texas' redesignation request for Victoria County.

The EPA is publishing this action without prior proposal because the EPA 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 May 8, 1995, unless adverse or critical comments are received by April 6, 1995. 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 on this action or the Texas RACT Catch-up and Victoria County Fix-up action, the public is advised that this action will be effective May 8, 1995. Similarly, if adverse or critical comments are received on the Texas RACT Catch-up and Victoria County Fix-up action, the notice on that action will be converted to a proposal and those comments addressed in a subsequent final action. In such a case, the Victoria County redesignation direct final action will be converted to a proposal as well.

The EPA has reviewed this redesignation request for conformance with the provisions of the CAA and has determined that this action conforms to those requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, under 5 U.S.C. 605(b), the EPA may certify that the rule will not have a significant impact on a substantial number of small entities (see 46 FR 8709). Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 1995. Filing a petition for reconsideration of this final rule by the Administrator 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, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Nothing in this action shall be construed as permitting, 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.

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 from basing 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. section 7410(a)(2). The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Area designations, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, National parks, Reporting and recordkeeping, Ozone, Volatile organic compounds, and Wilderness areas.

Dated: February 22, 1995.

Jane N. Saginaw,

Regional Administrator (6A).

40 CFR parts 52 and 81 are 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 SS—Texas

2. Section 52.2275 is amended by adding paragraph (e) to read as follows:

§ 52.2275 Control strategy and regulations: Ozone.

* * * * *

(e) Approval—The Texas Natural Resource Conservation Commission (TNRCC) submitted an ozone redesignation request and maintenance plan on July 27, 1994, requesting that the Victoria County ozone nonattainment area be redesignated to attainment for ozone. Both the redesignation request and maintenance plan were adopted by TNRCC in Commission Order No. 94–29 on July 27, 1994. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Texas Ozone State Implementation Plan for Victoria County. The EPA approved the request for redesignation to attainment with respect to ozone for Victoria County on May 8, 1995.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7871q.

2. In Section 81.344, the attainment status designation table for ozone is amended by revising the entry for Victoria County under ''Designated Area'' to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—OZONE

Designated area	Designation date	Classification	
		Type	Date type
Victoria Area, Victoria County.	May 8, 1995.	Attainment.	
*	*	*	* *

* * * * *

[FR Doc. 95–5347 Filed 3–6–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[MI21–04–6753, MI18–03–6754; FRL–5160–6]

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

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On July 21, 1994 the USEPA published a proposal to approve the 1990 base year emission inventory, basic vehicle inspection and maintenance (I/M) and the redesignation to attainment and associated section 175A maintenance plan for the ozone National Ambient Air Quality Standard (NAAQS) for the seven-county Detroit-Ann Arbor, Michigan area as a State Implementation Plan (SIP) revisions. The 30-day comment period concluded on August 22, 1994. A total of 72 comment letters were received in response to the July 21, 1994 proposal, 62 favorable, 9 adverse and 1 request to extend the comment period. On September 8, 1994, however, the USEPA published a correction document and 15-day extension of the comment period as a result of the inadvertent omission of a number of lines from the July 21, 1994 proposal. The reopened comment period concluded on September 23, 1994. An additional 25 comment letters were received in response to the September 8, 1994, extension of public comment period regarding the July 21, 1994 proposal approval, 2 favorable, 22 adverse and 1 informational. This final rule summarizes all comments and USEPA's responses, and finalizes the approval of the 1990 base year emission inventory, and basic I/M, and the redesignation to attainment for ozone and associated section 175A maintenance plan for the Detroit-Ann Arbor area.

EFFECTIVE DATE: This action will be effective April 6, 1995.

ADDRESSES: Copies of the SIP revisions, public comments and USEPA's responses are available for inspection at the following address: (It is recommended that you telephone Jacqueline Nwia at (312) 886–6081 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Jacqueline Nwia, Regulation Development Section (AT–18J), Air Toxics and Radiation Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–6081.

SUPPLEMENTARY INFORMATION:

I. Background Information

The 1990 base year emission inventory, basic I/M, and redesignation