

**List of Subjects in 30 CFR Part 935**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 10, 1995.

**Richard J. Seibel,**

*Acting Assistant Director, Eastern Support Center.*

[FR Doc. 95-9389 Filed 4-14-95; 8:45 am]

BILLING CODE 4310-05-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[NC-061-1-6815; FRL-5191-3]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** On November 12, 1993, the State of North Carolina through the North Carolina Department of Environment, Health, and Natural Resources submitted a maintenance plan and a request to redesignate the Charlotte-Gastonia area from nonattainment to attainment for ozone (O<sub>3</sub>). Subsequently on December 16, 1994, and January 6, 1995, the State submitted supplementary information which included refined modeling and identification of the future reductions needed to maintain the national ambient air quality standard (NAAQS) for O<sub>3</sub>. The Charlotte-Gastonia O<sub>3</sub> nonattainment area includes Mecklenburg and Gaston Counties. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such changes. In this action, EPA is proposing to approve the State of North Carolina's submittal because it will meet the maintenance plan and redesignation requirements. The approved maintenance plan will become a federally enforceable part of North Carolina's State Implementation Plan (SIP) for the moderate nonattainment area. In this action, EPA is also proposing to approve the State of North Carolina's 1990 baseline emissions inventory because it meets EPA's requirements regarding the approval on baseline emission inventories.

**DATES:** To be considered, comments must be received by May 17, 1995.

**ADDRESSES:** Written comments on this action should be addressed to Kay

Prince, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency,  
Region 4 Air Programs Branch, 345  
Courtland Street, NE, Atlanta, Georgia  
30365.

State of North Carolina, Air Quality  
Section, Division of Environmental  
Management, North Carolina  
Department of Environment, Health,  
and Natural Resources, Raleigh, North  
Carolina 27626.

Environmental Management Division,  
Mecklenburg County Department of  
Environmental Protection, 700 N.  
Tryon Street, Charlotte, North  
Carolina 28202-2236.

**FOR FURTHER INFORMATION CONTACT:** Kay Prince, 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 extension 4221. Reference file NC-061-1-6815.

**SUPPLEMENTARY INFORMATION:** On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. (Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). Under section 107(d)(1)(C), EPA designated Mecklenburg County of the Charlotte-Gastonia area as nonattainment by operation of law with respect to O<sub>3</sub> because the area was designated nonattainment immediately before November 15, 1990. The nonattainment area was expanded to include Gaston County per section 107(d)(1)(A)(i) (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.318.) The area was classified as moderate.

The moderate nonattainment area more recently has ambient monitoring data that show no violations of the O<sub>3</sub> NAAQS, during the period from 1990 through 1993. Therefore, in an effort to comply with the Clean Air Act as amended in 1990 (CAA) and to ensure continued attainment of the NAAQS, on November 12, 1993, the State of North Carolina submitted an O<sub>3</sub> maintenance plan and requested redesignation of the area to attainment with respect to the O<sub>3</sub> NAAQS. On January 24, 1994, Region 4 determined that the information received from the State constituted a

complete redesignation request under the general completeness criteria of 40 CFR 51, appendix V, sections 2.1 and 2.2. Subsequently, on December 16, 1994, and January 6, 1995, the State submitted additional information that refined the modeling and clarified the future measures needed to ensure maintenance of the O<sub>3</sub> NAAQS.

The North Carolina redesignation request for the Charlotte-Gastonia moderate O<sub>3</sub> nonattainment area meets the five requirements of section 107(d)(3)(E) for redesignation to attainment. The following is a brief description of how the State of North Carolina 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. The Area Must Have Attained the O<sub>3</sub> NAAQS**

The State of North Carolina's request is based on an analysis of quality assured ambient air quality monitoring data, which is relevant to the maintenance plan and to the redesignation request. Most recent ambient air quality monitoring data for calendar year 1990 through calendar year 1993 show an expected exceedance rate of less than 1.0 per year of the O<sub>3</sub> NAAQS in the nonattainment area (See 40 CFR 50.9 and appendix H). The area has continued to demonstrate attainment to date. Because the nonattainment area has complete quality-assured data showing no violations of the O<sub>3</sub> NAAQS over the most recent consecutive three calendar year period, the area has met the first component of attainment of the O<sub>3</sub> NAAQS. The State of North Carolina has also met the second component of attainment of the O<sub>3</sub> NAAQS by committing to continue monitoring the moderate nonattainment area in accordance with 40 CFR part 58.

**2. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA**

On April 17, 1980, August 27, 1981, October 11, 1985, November 19, 1986, and December 19, 1986, EPA fully approved North Carolina's SIP as meeting the requirements of section 110(a)(2) and part D of the 1977 CAA (45 FR 26038, 46 FR 43137, 50 FR 41501, 51 FR 41786, and 51 FR 45468). The approved control strategy did not result in attainment of NAAQS for O<sub>3</sub> prior to the 1990 CAA. Additionally, the amended CAA revised section 182(a)(2)(A), 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 reviewed the North Carolina SIP and ensures that it contains all measures due under the amended CAA prior to or at the time the State of North Carolina submitted its redesignation request.

Section 107(d)(3)(E) requires that, for an area to be redesignated, an area must have met all applicable requirements under section 110 and Part D. The USEPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must have 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 Act that come due subsequently continue to be applicable to the area at those later dates (see section 175A(c)) and, if the redesignation of the area is disapproved, the State remains obligated to fulfill those requirements.

#### A. Section 110 Requirements

Although section 110 was amended by the CAA, the North Carolina SIP for the moderate nonattainment area 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. 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 the moderate nonattainment area may be redesignated to attainment, the State 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 O<sub>3</sub> nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of title I, specific requirements of subpart 2 may override subpart's general provisions (57 FR 13501 (April 16, 1992)). The Charlotte-Gastonia nonattainment area is classified as moderate (See 56 FR 56694, codified at 40 CFR 81.318). The State of North Carolina submitted the request for redesignation of the moderate nonattainment area on November 12,

1993. Therefore, in order to be redesignated to attainment, the State of North Carolina must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and is also required to meet the applicable requirements of subpart 2 of part D, specifically sections 182(a) and (b).

a. *Subpart 1 of Part D.* Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment under the amended CAA. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the case of the Charlotte-Gastonia nonattainment area, the State has satisfied all of the section 172(c) requirements necessary for the area to be redesignated upon the basis of the November 12, 1993, redesignation request.

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 North Carolina submitted this redesignation request on November 12, 1993. Also the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures (RACT) 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 of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1), which EPA is proposing to approve in this action.

The State of North Carolina has a fully-approved NSR program meeting the requirements of section 182(b)(5). Therefore, the section 172(c)(5) requirement has been met.

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 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 13498t 13557 (April 16, 1992)].

The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188), 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 § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of North Carolina is required to submit SIP revisions containing transportation and general conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994 and December 1, 1994, respectively. Because the deadlines for these submittals had not come due at the time of the submission of the redesignation request, they are not applicable requirements under section 107(d)(3)(E)(V) and, thus, do not affect approval of this redesignation request. The State of North Carolina submitted a SIP revision which contains the required conformity provisions on March 3, 1995.

b. *Subpart 2 of Part D—Section 182.* The CAA was amended on November 15, 1990, Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. EPA was required to classify O<sub>3</sub> nonattainment areas according to the severity of their problem. On November 6, 1991 (56 FR 56694), the Charlotte-Gastonia area was designated as moderate O<sub>3</sub> nonattainment. Because the Charlotte-Gastonia area is a moderate O<sub>3</sub> nonattainment area, it is required to have met the requirements of sections 182(a), (b) and (f) of the CAA. EPA has analyzed the SIP and determined which requirements have been met and for which requirements further action is required. In the instances where further action is required, SIP revisions meeting those requirements must be fully approved in order for EPA to find that all the applicable requirements of the CAA

have been met. Thus, final approval of this redesignation is contingent upon the final approval of the additional SIP submittals described below.

(1) Section 182(a)(1)—Emissions Inventory

Section 182(a)(1) of the CAA required an inventory of all actual emissions from all sources, as described in section 172(c)(3) to be submitted by November 15, 1992. On November 13, 1992, the State submitted an emission inventory for the Charlotte-Gastonia area. EPA is proposing to approve the inventory in this notice. Final approval of this redesignation is contingent on final approval of the emissions inventory.

(2) Section 182(a)(2), 182(b)(2)—Reasonably Available Control Technology (RACT)

Subsequent to the 1977 Clean Air Act Amendments, Mecklenburg County was designated as not meeting the O<sub>3</sub> NAAQS on March 3, 1978 (43 FR 8962). The State was subsequently required to revise its O<sub>3</sub> SIP for this area to meet the requirements of section 110(a)(2) and part D of the 1977 Clean Air Act. On April 17, 1980, August 27, 1981, October 11, 1985, November 19, 1986, and December 19, 1986, EPA fully approved North Carolina's SIP as meeting the requirements of section 110(a)(2) and part D of the 1977 CAA (45 FR 26038, 46 FR 43137, 50 FR 41501, 51 FR 41786, and 51 FR 45468). On December 31, 1987, EPA deemed that this control strategy had not resulted in the attainment of the NAAQS for O<sub>3</sub> in the Charlotte-Gastonia area. Consequently, Greer C. Tidwell, Region 4 Regional Administrator, sent a letter to James G. Martin, Governor of North Carolina, on May 26, 1988. This letter, pursuant to section 110(a)(2)(H) of the 1977 CAA, notified North Carolina that the SIP was substantially inadequate to achieve the NAAQS for O<sub>3</sub> in Charlotte and called upon the State to revise the SIP.

The 1990 CAA amended section 182(a)(2)(A), and Congress statutorily adopted the requirement that O<sub>3</sub> nonattainment areas correct their deficient RACT rules for O<sub>3</sub> (RACT Fix-ups). Areas designated nonattainment before amendment of the CAA and which retained that designation and were classified as marginal or above as of enactment are required to meet the RACT Fix-ups requirement. Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT regulations as required under pre-

amendment guidance.<sup>1</sup> The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. Charlotte was previously subject to RACT requirements for ozone. Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991, deadline.

The 1990 CAA also amended section 182(b)(2) which required RACT on all major sources of VOCs for O<sub>3</sub> nonattainment areas designated moderate and above (RACT Catch-ups) by November 15, 1992. The RACT Catch-ups provision required the State to submit a revision to the SIP to implement RACT on: (1) Each category of VOC sources in the area covered by a control technique guideline (CTG) document issued between the enactment of the 1990 CAA and the date of attainment (which is not an applicable requirement for purposes of this redesignation since the due date for these rules is November 15, 1994, a date after the submission of the redesignation request); (2) all VOC sources in the area covered by any CTG issued before the date of the 1990 CAA; and (3) all other major stationary sources of VOCs that are located in the area.

North Carolina submitted SIP revisions to correct deficiencies in the VOC regulations to EPA on September 21, 1989, January 14, 1991, and April 29, 1991, all prior to the May 15, 1991, deadline. Additionally, revisions to the Mecklenburg County local program regulations were submitted on August 13, 1991, and July 19, 1993. A **Federal Register** notice approving these SIP revisions was published on June 23, 1994 (59 FR 32365). The approval became effective on August 22, 1994.

North Carolina failed to meet the November 15, 1992, deadline date for RACT catch-ups and EPA notified the State on January 15, 1993, that a finding of failure to submit had been made. 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) VOC

<sup>1</sup> Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy, 52 FR 45044 (Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing Control Technology Guidelines (CTGs).

regulations for this area as required by section 110(c)(1).

The 18-month period prior to application of mandatory sanctions ended on July 15, 1994. North Carolina submitted SIP revisions to EPA on January 7, 1994, prior to the July 15, 1994, deadline. Because the revisions addressed all RACT Catch-up requirements and were found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Action to give final approval of the North Carolina RACT Catch-up provisions will be taken at the time or prior to final approval of this redesignation.

(3) Section 182(a)(3)—Emissions Statements

Section 182(a)(3) of the CAA required that the SIP be revised by November 15, 1992, to require stationary sources of oxides of nitrogen (NO<sub>x</sub>) and VOCs to provide the State with a statement showing actual emission each year. North Carolina failed to meet the November 15, 1992, deadline date for Emissions Statements and EPA notified the State on January 15, 1993, that a finding of failure to submit had been made. 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) VOC regulations for this area as required by section 110(c)(1).

The 18-month period prior to application of mandatory sanctions ended on July 15, 1994. North Carolina submitted SIP revisions to EPA on December 17, 1993, prior to the July 15, 1994, deadline. Because the revision addressed all the Emission Statement requirements and was found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Final action regarding the North Carolina Emission Statement regulation will be taken at the time or prior to final approval of this redesignation. Approval of this redesignation is contingent upon approval of the emission statement regulation.

(4) Section 182(b)(1)—15% Progress Plans

Section 182(b)(1) of the CAA required states to submit a revision to the SIP by

November 15, 1993, to provide for 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 North Carolina 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 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 Charlotte-Gastonia area. Therefore, upon approval of this redesignation request, the sanctions clock 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.

(5) Section 182(b)(3)—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 (OBVR) regulations. On January 24, 1994, EPA promulgated the OBVR rule, and, as section 202(a)(b) of the CAA provides that once the rule is promulgated, moderate areas are no longer required to implement Stage II. Thus, the Stage II vapor recovery requirement of section 182(b)(3) is no longer an applicable requirement.

(6) Section 182(b)(4)—Motor Vehicle Inspection and Maintenance (I/M)

The CAA required all moderate and above areas to revise the SIP to include provisions necessary to provide for a vehicle inspection and maintenance program. The State failed to submit the required revisions and as a result, on January 15, 1993, EPA issued a finding letter notifying North Carolina 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 FIP I/M regulations for this area

as required by section 110(c)(1). However, on July 19, 1993, the State submitted revisions to their I/M regulations, prior to the July 15, 1994, deadline. Because the revision addressed all the I/M requirements and was found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Final action regarding the North Carolina I/M regulation will be taken at the time or prior to final approval of this redesignation. The approval of this redesignation is contingent upon final approval of the I/M regulation.

(7) Section 182(b)(5)—New Source Review (NSR)

The CAA required all classified nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions of VOCs compounds will not result from any new or major source modifications and a general offset rule. The State submitted a NSR rule on January 7, 1994, to incorporate VOC and oxides of nitrogen (NO<sub>x</sub>) permit review requirements for new and modified sources in North Carolina's O<sub>3</sub> nonattainment areas. The revised permit requirements meet new offset ratios and additional provisions for moderate O<sub>3</sub> nonattainment areas. EPA approved this rule on October 31, 1994 (59 FR 54388), giving North Carolina a fully approved NSR program. (EPA notes that under the policy announced in the memorandum, "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," dated October 14, 1994, from Mary D. Nichols to Air Division Directors I-X, approval of the NSR submittal is not necessarily required for approval of a redesignation.)

(8) Section 182(f)—Oxides of Nitrogen (NO<sub>x</sub>) Requirements

Section 182(f) of the CAA requires states with areas designated nonattainment for O<sub>3</sub> and classified as moderate and above to impose the same control requirements for major stationary sources of NO<sub>x</sub> as apply to major stationary sources of volatile organic compounds (VOCs). These control requirements, NO<sub>x</sub> RACT and NO<sub>x</sub> NSR, were to be submitted to EPA in a SIP revision by November 15, 1992. EPA adopted a policy pursuant to section 110(k)(4) of the CAA to conditionally approve NO<sub>x</sub> RACT SIPs which committed to provide EPA with specific enforceable measures within one year of the date of approval of the commitment. EPA's committal SIP

policy was challenged in *Natural Resources Defense Council v. Browner*—in the United States Court of Appeals for the District of Columbia Circuit. In a full Opinion, dated May 6, 1994, the Court found that EPA's conditional approval interpretation exceeded the EPA's statutory authority, but concluded that "EPA properly extended" to November 15, 1993, the deadline for submittal of fully enforceable NO<sub>x</sub> RACT SIPs. As a result of this court case, the deadline to submit NO<sub>x</sub> RACT rules was November 15, 1993. Therefore, because that date is after the State submitted the redesignation request, NO<sub>x</sub> RACT is not an applicable requirement for this redesignation request.

**3. The Area Has a 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 amended CAA, EPA has determined that North Carolina will have a fully approved O<sub>3</sub> SIP under section 110(k) for the moderate nonattainment area if EPA approves SIP submissions regarding the emissions inventory, emission statements, VOC RACT catch-ups, and I/M. Final action will be taken prior to or at the same time as final approval of this redesignation.

**4. The Air Quality Improvement Must Be Permanent and Enforceable**

Several control measures have come into place since the Charlotte-Gastonia nonattainment area violated the O<sub>3</sub> NAAQS. Of these control measures, the reduction of fuel volatility from 10.6 psi in 1987 to less than 9.0 psi in 1990, and finally to less than 7.8 psi beginning with the summer of 1992, as measured by the Reid Vapor Pressure (RVP), and fleet turnover due to the Federal Motor Vehicle Control Program (FMVCP) produced the most significant decreases in VOC emissions. The reduction in VOC emissions due to the mobile source regulations from 1987 to 1990 is 26.01 tons per day (29.63%). The VOC emissions in the base year are not artificially low due to a depressed economy.

**5. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA**

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years

after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems.

In this notice, EPA is proposing approval of the State of North Carolina's maintenance plan for the Charlotte-Gastonia nonattainment area because EPA finds that North Carolina's submittal meets the requirements of section 175A.

#### A. Emissions Inventory—Base Year Inventory

On November 13, 1992, the State of North Carolina submitted comprehensive inventories of VOC, NO<sub>x</sub>, and CO emissions from the Charlotte-Gastonia nonattainment area. The inventory included biogenic, area, stationary, and mobile sources for 1990.

The State of North Carolina submittal contains the detailed inventory data and summaries by county and source category. Finally, this inventory was prepared in accordance with EPA guidance. A summary of the base year inventory is included in this notice. This notice proposes approval of the base year inventory for the Charlotte-Gastonia area.

#### 1990 CHARLOTTE/GASTONIA TYPICAL SUMMER DAY EMISSIONS TONS PER DAY (TPD)

Category	NO <sub>x</sub>	VOC	CO
Point .....	31.25	33.99	35.27
Area .....	4.92	67.59	25.00
Nonroad .....	15.52	19.38	138.45
Biogenic .....	2.78	54.41	0.0
Mobile .....	61.64	50.81	371.26
Total .....	116.11	226.18	569.98

#### B. Demonstration of Maintenance—Urban Airshed Modeling

##### a. Proposed Control Strategy

The plan must demonstrate maintenance for at least 10 years. The North Carolina plan demonstrates maintenance out to the year 2005 through the use of the Urban Airshed Model (UAM). The revised modeling runs, submitted in the December 16, 1994 supplement, were completed for three meteorological episodes during which the area experienced exceedances of the ozone standard. These runs corrected and completed the modeling submitted in the original November

1993 submittal pursuant to EPA comments. Base and future case modeling was done according to guidelines presented in the EPA document "Guideline for Regulatory Application of the Urban Airshed Model" in performing the modeling analysis. The future case modeling includes the interim year 1999 and the 10 year maintenance year of 2005. This modeling analysis did not assume any benefit from the NSR program.

Modeling for all three episodes indicated that to predict all grid cells below .124 parts per million (ppm) for both 1999 and 2005, additional controls would be needed. The analysis of control options showed that a further reduction of VOC emissions of 25 percent demonstrated a 1 part per billion (ppb) reduction of ozone and a further reduction of VOC emissions of 50 percent demonstrated a 2 ppb or less reduction in ozone. By contrast, a 35 percent further reduction of NO<sub>x</sub> resulted in a 10–12 ppb reduction in ozone. Therefore, North Carolina concluded that the NO<sub>x</sub> controls will be more effective in the maintenance of the standard in the Charlotte/Gastonia area, and, hence, the selected strategy primarily consists of controls of NO<sub>x</sub> emissions. The revised modeling and the identified control measures will be the subject of a public hearing on April 19, 1995. The selected control strategy includes the following measures:

- Reformulated Gasoline to meet the Federal Phase I and Phase II standards to begin in 1999 in Mecklenburg, Gaston, Union, Cabarrus, Lincoln, Rowan, and Iredell Counties;
- Clean Fuel Fleet Program, including the schedule for implementation as specified in the CAA for areas classified serious and above, in the same seven counties previously listed;
- Burning bans in the seven counties for the months of June, July, and August;
- Control of NO<sub>x</sub> for the Transcontinental Natural Gas Pumping Station in Iredell County for the months of June, July, and August; and
- Additional 10 percent control beyond the control being applied to meet title IV NO<sub>x</sub> requirements on Duke Power's Allen and Riverbend facilities in Gaston County for the months of June, July, and August.

The State will also take comment at the public hearing on the feasibility of substituting an enhanced I/M program for the reformulated gasoline measure. The modeling results indicate that such substitution would show maintenance of the standard. The strategy represents a combination of mobile and stationary source controls that provide a 25 ton per day reduction in NO<sub>x</sub> emissions resulting in a 2–6 ppb reduction in ozone, depending upon the

meteorological episode. The modeling for all three meteorological episodes for both 1999 and 2005 with the above described control strategy showed attainment of the O<sub>3</sub> standard. The State has committed to develop regulations necessary to implement a control strategy that will demonstrate maintenance of the ozone standard through 2005, and submit those regulations to EPA for approval into the maintenance plan.

##### b. Request for Comments

Consistent with the notice of public hearing for the redesignation of the Charlotte-Gastonia ozone nonattainment area, the State will take comment on the aforementioned control strategy, that strategy with enhanced I/M as a substitute for the reformulated gasoline measure, and any combination of those control measures. EPA invites comment on the following scenarios:

- Adoption and implementation in 1999 of the five measures as detailed above;
- Adoption and implementation in 1999 of the five measures as detailed above with enhanced I/M substituted for the reformulated gasoline program;
- Adoption and implementation in 1999 of the aforementioned controls on the Transcontinental Natural Gas Pumping Station in Iredell County and the additional 10 percent control beyond the title IV requirements on Duke Power's Allen and Riverbend facilities in Gaston County; or
- Approval of the request as demonstrating maintenance with no additional VOC or NO<sub>x</sub> controls.

Scenarios a and b both involve a combination of measures that results in the modeling showing attainment of the standard in all grid cells. Scenario a, however, involves the inclusion by the State in the maintenance plan of regulations to require the sale of reformulated gasoline beginning in 1999. EPA specifically requests comment regarding the issue of whether such regulations may be adopted or enforced in maintenance or attainment areas by a state in light of the preemption provisions of section 211(c)(4) of the CAA.

Scenarios c and d, on the other hand, do not provide for the adoption of control measures that result in the modeling showing attainment of the standard in all grid cells. EPA requests comment as to whether, in light of the reasons described below, a maintenance plan based on either scenario c or d should be approved for the Charlotte area. Under scenario d, no additional controls approved for maintenance, the modeling shows 3 to 4 grid cells out of 625 over the standard. The range of predicted values above .124 ppm for this scenario is .125 ppm to .129 ppm.

Although the ozone modeling guidance generally requires that modeling results show attainment of the standard in all grid cells, it does allow alternative methods for demonstrating attainment on a case by case basis. EPA believes that the modeling demonstration submitted by the State of North Carolina is sufficiently conservative so that it is likely that the O<sub>3</sub> NAAQS will continue to be maintained in the Charlotte area without the State having to invoke costly additional measures adopted in the maintenance standard. That belief is based on the combination of the following factors:

(1) North Carolina has five years of air quality data showing attainment of the standard.

(2) The maintenance plan contains pre-adopted measures and a violation would trigger reduction in emissions by the following ozone season.

(3) The ozone standard is a statistically based NAAQS that allows one exceedance per year.

(4) North Carolina has done extensive modeling to gain an understanding of the creation of ozone in the Charlotte area and has generally made conservative assumptions in selecting modeling inputs.

(5) The uncertainties in the biogenic emission inventory and other modeling inputs are well within the range of the 2–3 ppb needed to reach the .124 ppm in all grid cells.

(6) The modeling did not account for lower VOC, NO<sub>x</sub> and O<sub>3</sub> boundary conditions expected when SIP attainment control programs have been implemented in many areas throughout the United States.

Therefore, EPA believes the area is eligible for redesignation with the existing control strategy and the contingency plan discussed below.

The emissions budget for conformity is contingent upon the control strategy selected pursuant to the April 19, 1995, public hearing. That budget will be published in any notice that takes final action approving this redesignation request.

### C. Verification of Continued Attainment

Continued attainment of the O<sub>3</sub> NAAQS in the nonattainment area depends, in part, on the State of North Carolina's efforts toward tracking indicators of continued attainment during the maintenance period. The primary trigger of the contingency plan will be a violation of the ambient air quality standard for ozone. The trigger date will be the date that the State certifies to EPA that the data is quality assured, which will occur no later than 30 days after the recorded violation. The secondary trigger of the contingency plan will be an exceedance of the ozone standard that would indicate a violation could be imminent. This trigger will be

activated within 30 days of the State finding the exceedance.

Once either the primary or the secondary trigger is activated, the State Air Quality Section will commence analysis, including updated modeling as necessary, to determine what control measures will be required to bring the area back into attainment. By May 1 of the year following the ozone season in which the primary trigger has been activated, the State will complete the analysis and adopt stationary control measures indicated by the analysis, using the emergency rule process as necessary. The time frame for adopting measures other than for stationary sources will be based on the time frames in section 181(b) of the CAA. Where only the secondary trigger has been activated, the State will complete the analysis and begin the regulatory adoption process for any measures that are needed by May 1 of the following year.

### D. Contingency Plan

The level of VOC and NO<sub>x</sub> emissions in the nonattainment areas will largely determine its ability to stay in compliance with the O<sub>3</sub> 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, the State of North Carolina has provided contingency measures with a schedule for implementation in the event of a future O<sub>3</sub> air quality problem. The actual measures will be determined from the analysis process described in the Verification of Continued Attainment portion of this notice. The measures analyzed will include RACT or greater level control for NO<sub>x</sub> and VOC sources, Stage II vapor control for gasoline dispensing facilities, enhancements to the I/M program, transportation control measures, and any other appropriate measures. EPA finds that the contingency plan provided in the State of North Carolina's submittal meets 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 of North Carolina has agreed to submit a revised maintenance SIP eight years after the nonattainment area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

### 6. Proposed Action

EPA proposes approval of the State of North Carolina's request to redesignate

to attainment the Charlotte-Gastonia O<sub>3</sub> nonattainment area and maintenance plan contingent upon a full and final approval of the outstanding requirements discussed above (emission statement, RACT catch-ups, emission inventory and I/M). EPA also proposes to approve the 1990 baseyear inventory for the Charlotte-Gastonia nonattainment area.

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 state 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.

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

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

### List of Subjects

#### 40 CFR Part 52

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

#### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: April 5, 1995.

**Joe R. Franzmathes,**

*Acting Regional Administrator.*

[FR Doc. 95-9248 Filed 4-14-95; 8:45 am]

BILLING CODE 6560-50-P