

25. Appendix I to subpart A, part 401 would be amended by revising the first sentence of the second undesignated paragraph after paragraph (b) to read as follows:

Appendix I—Vessel Dimensions

* * * * *

The limits in the block diagram are based on vessels with a maximum allowable beam of 23.2 m. * * *

* * * * *

Issued at Washington, D.C. on June 6, 1995.
Saint Lawrence Seaway Development Corporation.

Marc C. Owen,
Chief Counsel.

[FR Doc. 95-14366 Filed 6-14-95; 8:45 am]

BILLING CODE 4910-61-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ50-1-6966b; FRL-5187-9]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Arizona State Implementation Plan (SIP) which concern the Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM).

The implementation plan was submitted by the State to satisfy the Federal mandate of the Clean Air Act (CAA) to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. In the final rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without additional proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule

will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 17, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,
75 Hawthorne Street, San Francisco,
CA 94105

U.S. Environmental Protection Agency,
Air Docket 6102, 401 "M" Street, S.W.
Washington, D.C. 20460

Arizona Department of Environmental
Quality, 3033 North Central Avenue,
Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: R. Michael Stenburg, A-1, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1102.

SUPPLEMENTARY INFORMATION: This document concerns the Arizona Small Business Stationary Source Technical and Environmental Compliance Assistance Program, submitted to EPA on November 13, 1992 and February 1, 1995 by the Arizona Department of Environmental Quality. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

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

Dated: March 27, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95-14626 Filed 6-14-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[OH79-1-6970; FRL-5221-8]

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

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The Ohio Environmental Protection Agency has requested the redesignation of the Cleveland/Akron/

Lorain metropolitan area (consisting of the Ohio counties of Lorain, Cuyahoga, Lake, Ashtabula, Geauga, Medina, Summit and Portage) from moderate nonattainment to attainment for ozone. Before the request can be approved through final rulemaking, several State Implementation Plan (SIP) revisions must be approved. The USEPA is rulemaking, or has rulemade, separately on Ohio SIP revisions involving volatile organic compounds (VOC) Reasonable Available Control Technology (RACT) rules, the 1990 Base-year Inventory, the section 182(f) nitrogen oxides (NO_x) RACT waiver request, the 182(b)(1) reasonable further progress plan, the 182(b)(4) inspection and maintenance plan, and the attainment demonstration. Upon final approval of the required plan elements, the CAL nonattainment area will have met all of the requirements for redesignation specified under section 107(d)(3)(E). Therefore, the USEPA is proposing approval of the redesignation request and maintenance plan for the CAL area of Ohio.

DATES: Comments on this redesignation and on the proposed USEPA action must be received by July 17, 1995.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other information are available for inspection during normal business hours at the following location. Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE-17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353-6713.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

The Ohio Environmental Protection Agency (OEPA) has requested the redesignation of the Cleveland/Akron/Lorain (CAL) area of Ohio (consisting of the counties of Lorain, Ashtabula, Cuyahoga, Geauga, Lake, Medina, Portage, and Summit) from nonattainment to attainment for ozone. The USEPA received the request for redesignation to attainment on November 15, 1994.

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. Pursuant to Section 107(d)(4)(A), the CAL was designated as a moderate ozone nonattainment area. As explained below, the CAL area had been designated nonattainment prior to the enactment of the 1990 CAAA. A review of the CAL area redesignation request is presented below.

II. Redesignation Review Criteria

The Clean Air Act provides the requirements for redesignating a nonattainment area to attainment. Specifically, Section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the National Ambient Air Quality Standard (NAAQS); (ii) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of Section 175(A); and (v) The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

The USEPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992), supplemented at 57 FR 18070 (April 28, 1992). Three key memoranda provide further guidance with respect to section 107(d)(3)(E) of the amended Act. The first, dated September 4, 1992, was issued by John Calcagni, Director, Air Quality Management Division, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment (Calcagni Memorandum). The second, dated September 17, 1993, was issued by Michael Shapiro, Acting Assistant Administrator for Air and Radiation, Subject: State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) NAAQS on or after November 15, 1992 (Shapiro Memorandum). The third, dated October 14, 1994, was issued by Mary Nichols, Assistant Administrator for Air and Radiation, Subject: Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment (Nichols Memorandum).

Analysis of CAL Area Redesignation Request

A. The Area Must Have Attained the Ozone National Ambient Air Quality Standard (NAAQS)

For ozone, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9, based on three complete, consecutive calendar years of quality assured monitoring data. The data that are used should be the product of ambient monitoring that is representative of the area believed to have the highest concentration. A violation of the NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1.05 at any site under consideration. A daily exceedance occurs when the maximum hourly ozone concentration during a given day exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR § 58, and recorded in the Aerometric Information Retrieval System (AIRS). The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The OEPA submitted ozone monitoring data from the CAL area for the April through October ozone season from 1976 to 1994. The majority of recent exceedances occurred during 1988. To demonstrate monitored attainment with the standard, the OEPA submitted ozone air quality data for the three most recent years, 1992 through 1994. This data has been quality assured and is recorded in AIRS. No violations were recorded during this three-year time period.

The CAL moderate nonattainment area contains ten monitors measuring ambient concentrations of ozone. The monitors and the number of exceedances for 1992 through 1994 are detailed in the technical support document. The site with the greatest number of expected exceedances for the three year period is in Cuyahoga County and has an annual average exceedance value of 1.00. The only other exceedance recorded during the three year period was in 1994 at a monitor in Medina County. This was a monitor that was relocated in 1993 due to operational problems. The CAL moderate nonattainment area is currently attaining the standard.

B. The Area Must Have a Fully Approved State Implementation Plan (SIP) Under Section 110(k)

The counties of the CAL moderate nonattainment area were designated

nonattainment for ozone in March 1978, based on monitored violations. Additional monitored violations in 1983 caused USEPA to propose to disapprove the nonattainment SIP submitted in 1982 by OEPA and to require a revised SIP and attainment demonstration by 1987. Monitored violations occurred again in the CAL area during the summer of 1988.

The CAAA provided that any area designated nonattainment as of November 15, 1990, would remain nonattainment and would be classified in one of five categories, based on the severity of the monitored design concentration value. The CAL area was classified as a moderate nonattainment area and as a result was required to submit a revised SIP which meets the requirements of the Clean Air Act Amendments and demonstrates attainment with the ozone standards.

The Shapiro memorandum, cited above, provides guidance on programs that must be in the SIP before the redesignation request can be approved. The memorandum states that for redesignation, the States must adopt and provide for implementation of all the programs that were due by the date of the redesignation request. Exceptions to this policy apply to only four program areas: Basic inspection and maintenance; annual updates of vehicle miles traveled forecasts and annual estimates of actual vehicle miles traveled for Carbon Monoxide (CO) nonattainment areas; nitrogen oxide reasonably available control technology (RACT), and small business assistance programs.

Section E of this notice discusses the requirements under section 110 and Part D of Title 1 of the CAAA. As discussed in that section, USEPA is rulemaking, or has rulemade, separately on the Volatile Organic Compounds (VOC) RACT rules, the emissions inventory, NO_x RACT waiver, and I/M plan. Final approval of the required submittals will provide the area with a fully approved SIP at the time of final rulemaking on the redesignation request. The CAL area was also required to submit a 15 percent Rate of Progress Plan and an attainment demonstration. However, a May 10, 1995, memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard", states that upon a determination made by USEPA that an area has attained the NAAQS for ozone, that area need not submit SIP revisions concerning

reasonable further progress (15% plan) and attainment demonstrations for as long as the area continues to meet the standard. It is expected that such a determination will soon be made, in separate rulemaking, for the CAL area. If such a determination is made, the final approval of the CAL redesignation request will no longer be contingent upon USEPA approval of the 15% plan or the attainment demonstration.

C. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions Resulting From the SIP, Federal Measures, and Other Permanent and Enforceable Reductions

The State must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. To satisfy this requirement, the State should estimate the percent reduction from the year that was used to determine the design value for designation and classification achieved from Federal measures and control measures that have been adopted and implemented by the State. Emission rates, production capacities and other information should be used in the estimation. Sources should be assumed to operate at permitted or historic peak levels unless evidence is presented that such an assumption is unrealistic.

The OEPA submittal documents reductions in emission from 1990 to 1993. The year 1988 was the year which determined the design value and should have been the year from which reductions were calculated. This comment was made to OEPA in a January 6, 1995, letter from William L. MacDowell, Section Chief, Regulation Development Section, Region 5, to Mary Cavin, Hearing Clerk, OEPA. The OEPA responded that the result of using 1988 instead of 1990 as the base year would be that a greater reduction of emissions would have been calculated. The USEPA agrees that the use of 1988 data would not have affected the conclusion that the reductions in emissions from permanent and enforceable programs have resulted in improved air quality in the area and therefore accepts the reductions as calculated.

The OEPA submittal states that the 1993 emissions inventory is reflective of attainment conditions. The OEPA states that the reductions in emissions from the base year are achieved from the implementation of two federal programs; lower fuel volatility and the Federal Motor Vehicle Control Program

(FMVCP). These programs are permanent and federally enforceable. The motor fuel volatility Phase I standards became effective nationwide in the summer of 1989, and established a volatility limit in the CAL area of 10.5 pounds per square inch Reid Vapor Pressure (RVP). The RVP was further lowered in 1992 to 9.0 pounds per square inch. The total reduction in mobile source VOC emissions from 1990 to 1993 was 66 tons per day. These reductions were quantified using the MOBILE5A model.

From the years 1990 to 1993, point source VOC emissions increased by 2.7 tpd, while area source emissions decreased by 1.8 tpd. Area sources were assumed to change, based on historical population information as interpolated by Bureau of Economic Analysis (BEA) data for the years 1988 to 1995, on industrial employment data, and on gasoline sale trends. Point source emissions for 1990 were developed from reports submitted to the local air agencies by facilities with actual combined VOC emissions of 10 tons per year or more. The following table shows VOC emissions for area, point, and mobile sources from 1990 to 1993.

	1990	1993
Area (TPD)	147.7	145.9
Point	74.7	77.4
Mobile	248.4	182.3
Total	470.8	405.6

The State has shown that actual total VOC emissions were reduced by 14 percent or about 65 tons per day from 1990 to 1993; due primarily to mobile source reductions. Although the State did not calculate reductions based on a design year (i.e., 1988) emissions inventory, the demonstration that was submitted is adequate to show that actual reductions of VOC emissions have occurred in the area. The reduction in emissions shown in the submittal has been reasonably attributed to two programs: lower fuel volatility and the Federal Motor Vehicle Control Program. Both of the programs result in permanent and enforceable reductions in VOC emissions, and, therefore, the requirement of section 107(d)(3)(E)(iii) is satisfied.

D. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA defines requirements for maintenance plans. The maintenance plan is a SIP element

which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. There are five core provisions which the maintenance plan should address: the attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The attainment inventory should identify the level of emissions in the area which is sufficient to attain the ozone NAAQS and should include the emissions during the time period associated with the monitoring data showing attainment. Maintenance is demonstrated by showing that future emissions will not exceed the level of the attainment inventory. Modeling may also be used to show that the future combination of sources and emission rates will not cause a violation of the NAAQS. The maintenance plan must also provide for continued operation of an appropriate air quality monitoring network to verify the attainment status of the area. The plan must indicate how the State will track the progress of the maintenance plan. Finally, the maintenance plan must include contingency measures to promptly correct any violation of the ozone NAAQS that occurs after redesignation of the area to attainment.

Attainment Inventory

The CAL area submittal contained inventories of 1990 actual VOC emissions from stationary, area, and mobile sources. The year 1990 was selected as the base year and used to project emissions to future years. The 1993 emissions inventory is considered as the attainment year inventory because no ozone violations have occurred since 1991, and the 1993 projections were performed per USEPA guidance. The approvability of the emission inventories will be addressed in a separate rulemaking. Final approval of the CAL nonattainment region emission inventories is needed before the redesignation request can be approved.

Maintenance Demonstration

The CAL area submittal shows projected VOC, NO_x, and CO emissions from the 1990 base year for the years 1993, 1996, 2000, and 2006. The projections show that the level of emissions established for the attainment year inventory will not be exceeded. The following tables list the VOC and NO_x emissions for the base year, final year and interim years.

SUMMARY OF VOC EMISSIONS (TONS/DAY)

	1990 Base	1993 Attain	1996 Proj.	2000 Proj.	2006 Proj.
Point	74.7	77.4	80.2	84.1	90.5
Area	147.7	145.9	144.6	143.0	140.6
Mobile	248.4	181.4	131.2	78.4	48.8
Totals	470.8	404.7	356.0	305.5	279.9

SUMMARY OF NO_x Emissions (TONS/DAY)

	1990 Base	1993 Attain	1996 Proj.	2000 Proj.	2006 Proj.
Point	244.7	242.6	240.0	236.0	232.3
Area	55.1	54.7	54.4	54.1	53.2
Mobile	176.6	159.9	142.2	95.57	75.4
Totals	476.4	457.2	436.6	385.7	360.9

The OEPA is revising the base year emission and projected year inventory numbers in response to comments made by USEPA. Although the revisions will change the emission totals, the changes are not expected to affect the results of the maintenance demonstration. The revised base year, attainment year, and projected emissions will be presented in the final rule.

Emission Projections

Projections of stationary source emissions through the year 2006 were developed based on data provided by the Bureau of Economic Analysis (BEA), United States Department of Commerce, showing manufacturing earnings by industry. An annual growth factor was derived from this data and that growth factor was used to determine future year inventories. The base year inventory was developed through reports submitted by facilities with actual combined VOC emissions of 10 tons per year or more. The 1990 base year inventory reflects tons per typical summer day emissions as well as an 80 percent rule effectiveness assumption.

The area source emissions inventory includes sources too small to be handled individually in the point source inventory. The emissions in the area source inventory were reported in tons per typical summer day. Projections of area source emissions for most source categories were based on population data supplied by the Ohio Data Users Center: Ohio Department of Development. Some source categories (such as degreasing operations, construction and industrial equipment, and auto painting/traffic lines) used industrial employment, from BEA data, as the growth indicator. State gasoline consumption was used as a growth indicator to project emissions from gasoline distribution.

Mobile source emissions inventories were generated by applying the emission factors from USEPA's Mobile5A emissions model to the projected Vehicle Miles Travelled (VMT) in the CAL area counties. The VMTs for the 1990 base year were based on the TRANPLAN model, which utilizes actual traffic counting. Forecasts of VMTs to the year 2006 relied on the development of future highway networks, future forecasts of socio-economic data, and travel patterns in the CAL area. VMTs are projected to increase 9.6 percent by the year 2006 from the 1990 base year. The mobile source emissions budget for the year 2006 for VOC and NO_x for purposes of transportation conformity is 48.8 tons/day and 75.4 tons/day, respectively.

Several programs account for the significant reductions in mobile emissions predicted through the year 2006. These programs, which are Federally approved or in the process of being approved, include the enhanced inspection and maintenance, State II vapor recovery, on-board vapor recovery, FMVCP, and lower fuel volatility. Incorporation of enhanced inspection and maintenance into the Mobile5A modeling is initiated in 1996. The Stage II vapor recovery system (VRS) is fully implemented and Federally enforceable in 1995, while the on-board vapor recovery system begins in 1998. The on-board vapor recovery system applies to the four possible vehicle types; light duty gasoline, light duty truck 1 and 2, and heavy duty gasoline.

Monitoring Network

There are currently ten monitors measuring ozone in the CAL area. The monitors are operated by the local air agencies and the data is recorded in AIRS. The CAL local air agencies

commit to continue operating and maintaining the ozone monitor network consistent with the requirements of Federal and State monitoring guidelines in order to continue to verify the attainment status of the area.

Contingency Plan

The contingency plan for the CAL area contains three major components: attainment tracking, contingency measures to be implemented in the event that a violation of the ozone NAAQS occurs in the CAL area, and a mechanism with which to trigger the implementation of the contingency measures.

Two methods of attainment tracking will be utilized: (1) air quality monitoring using the existing ozone monitoring network, and (2) inventory updates on a regular schedule. Stationary, mobile, and area source inventories will be updated at a minimum of once every three years beginning with 1996. Annual progress reports will summarize available VOC emissions data during years when area and mobile source inventories are not developed.

The contingency measures to be considered for implementation are listed below.

1. Lower Reid Vapor Pressure for gasoline
2. Reformulated gasoline program
3. Broader geographic coverage of existing regulations
4. Application of RACT on sources covered by new control technology guidelines issued in response to the 1990 Act Amendments
5. Application of RACT to smaller existing sources
6. Implementation of one or more transportation control measures sufficient to achieve at least a 0.5 percent reduction in actual areawide

- VOC emissions. The transportation control measures to be considered would include: (1) Trip reductions programs, including but not limited to employer-based transportation management programs, areawide rideshare programs, work schedule change, and telecommuting; (2) transit improvements; (3) traffic flow improvements; and (4) other measures
7. Alternative fuel programs for fleet vehicle operations
 8. Controls on consumer products consistent with those adopted elsewhere in the United States
 9. VOC offsets for new or modified major sources
 10. VOC offsets for new or modified minor sources
 11. Increased ratio of VOC offsets required for new sources
 12. Requirement of VOC controls on new minor sources.

Selection of one or more of the contingency measures will be based on various considerations including cost-effectiveness, VOC reduction potential, economic and social consideration, and other factors the State determines to be appropriate.

Consideration and selection of one or more of the contingency measures will take place in the event the ozone NAAQS is violated in the CAL area. Initially, the State, in cooperation with NOACA, AMATS, and the local air agencies, will conduct an analysis to determine the level of control measures needed to assure expedient future attainment. If a subsequent violation of the ozone NAAQS occurs after implementation of the VOC control measures, NO_x RACT will be implemented. Contingency measures will be implemented according to the following schedule:

Activity	Completion time after triggering event (monitored violation)
Verify a violation has occurred.	1 month.
Identify VOC plan and submit schedule for implementation.	3 months.
Implement VOC control program.	12 months.
	Completion time after second triggering event/post VOC control plan
Verify a violation has occurred.	1 month.
Submit schedule for implementation of NO _x RACT.	3 months.
Implement NO _x RACT.	18 months.

Reformulated gasoline and low RVP gasoline would not be able to be implemented as contingency measures by the State of Ohio unless the State first requested and received from EPA a waiver of Federal preemption under section 211(c)(4) of the CAA. However, in light of the State's listing of other potential contingency measures and the State's commitment to implement contingency measures within 12 months of a violation, the identification of reformulated gasoline and low RVP gasoline does not detract from the approvability of the contingency plan.

The Ohio submittal adequately addresses the five basic components which comprise a maintenance plan (attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan) and therefore, satisfies the maintenance plan requirement in section 107(d)(3)(E)(iv).

E. The Area Must Have Met All Applicable Requirements Under Section 110 and Part D

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.

Section 110: General Requirements for Implementation Plans

Section 110(a)(2) of Title I of the CAAA lists the elements to be included in each SIP after adoption by the State and reasonable notice and public hearing. The elements include, but are not limited to, provisions for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; implementation of a permit program, provisions for Part C (PSD) and D (NSR) permit programs, criteria for stationary source emission control measures, monitoring, and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the CAL area SIP was reviewed to ensure that all requirements under the amended Act were satisfied. USEPA has determined that the CAL

area SIP is consistent with the requirements of section 110 of the amended Act.

Part D: General Provisions for Nonattainment Areas

Before the CAL area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D. Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the general requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). The CAL area was classified as moderate. Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—specifically section 172(c), as well as the applicable requirements of subpart 2 of part D.

Section 172(c) Requirements

The State redesignation request for the CAL area has satisfied all of the relevant submittal requirements under section 172(c) necessary for the area to be redesignated to attainment. Some components have not yet completed regulatory review. Approval of all required SIP revisions is necessary before the redesignation request can be approved. The reasonable further progress (RFP) requirement under section 172(c)(2) is defined as progress that must be made toward attainment. In accordance with the General Preamble (57 FR 13564), this requirement is not relevant because the CAL area has already demonstrated monitored attainment of the ozone NAAQS. Likewise, because the area has already attained the NAAQS, the contingency measures required under section 172(c)(9) are not applicable.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The State has submitted such an inventory under section 182(a)(1). It is currently being reviewed for approvability.

Section 172(c)(5) requires permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The USEPA has determined that areas being redesignated need not comply with the requirement that a New Source Review (NSR) program be approved prior to redesignation provided that the

area demonstrates maintenance of the standard without part D NSR in effect. The rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment". The State of Ohio has demonstrated that the CAL 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 the area. The State's Prevention of Significant Deterioration (PSD) program will become effective in the CAL area upon redesignation to attainment.

Section 176 Conformity Plan Provisions

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that, before they are taken, Federal actions 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").

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994, and November 30, 1994, respectively. Because the redesignation request was submitted before these SIP revisions came due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

Subpart 2 Section 182 Requirements

The CAL area is classified moderate nonattainment; therefore, part D, subpart 2, section 182(b) requirements apply. In accordance with guidance presented in the Shapiro memorandum, the requirements which came due prior to the submission of the request to redesignate the CAL area must be fully approved into the SIP before the request

to redesignate the area to attainment can be approved. Those requirements are discussed below:

(a) 1990 Base Year Inventory

The 1990 base year emission inventory was due on November 15, 1992. It was submitted to USEPA on March 14, 1994. USEPA is currently reviewing the base year inventory. Approval of the redesignation request is contingent upon approval of the 1990 base year inventory.

(b) Emission Statements

The emission statements SIP was due on November 15, 1992. It was submitted to the USEPA on March 18, 1994. The USEPA approved this SIP revision through a direct final rulemaking action published on October 13, 1994 (59 FR 51863). This approval became effective on December 12, 1994.

(c) 15% Plan

The 15% Rate of Progress plan for VOC reductions was required to be submitted by November 15, 1993, and, therefore, is applicable to the CAL Moderate Nonattainment area. The 15% plan was submitted to USEPA on March 14, 1994, and is currently under review. Additionally, an attainment demonstration was required for the CAL area which must show that the reductions are adequate to show attainment with the NAAQS by 1996. The OEPA submitted an attainment demonstration on March 14, 1994. It is currently under review. However, as mentioned previously, the May 10, 1995, memorandum from John S. Seitz states that upon a determination made by USEPA that an area has attained the NAAQS for ozone, that area need not submit SIP revisions concerning reasonable further progress (15% plan) and attainment demonstrations for as long as the area continues to meet the standard. It is expected that such a determination will soon be made, in separate rulemaking, for the CAL area. If such a determination is made, the final approval of the CAL redesignation request will no longer be contingent upon USEPA approval of the 15% plan or the attainment demonstration.

(d) RACT Requirements

SIP revisions requiring RACT for three classes of VOC sources are required under section 182(b)(2). The categories are:

(i) All sources covered by a CTG document issued between November 15, 1990 and the date of attainment. The USEPA has issued a CTG document in which it lists 11 CTG's that are planned to be issued in accordance with section

183. The USEPA has also promulgated a CTG document entitled "Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry", August 1993. However, the CAL redesignation request was submitted before the November 15, 1994 (57 FR 18070), due date for RACT rule submission for the 11 CTG's and the March 23, 1995 (59 FR 13717), due date for the more recent CTG. Therefore, this requirement is not applicable.

(ii) All sources covered by a Control Technology Guideline (CTG) issues prior to November 15, 1990. The State has stated that it has adopted rules requiring RACT for sources for which a CTG has been issued. A direct final rule approving the revision was published on March 23, 1995.

(iii) All other major non-CTG stationary sources. The non-CTG rules were due by November 15, 1992, and apply to the Ohio submittal. The USEPA is currently reviewing non-CTG rules submitted by Ohio. Approval of the redesignation request is contingent upon approval of the non-CTG rules.

(e) Stage II Vapor Recovery

Section 182(b)(3) requires States to submit Stage II rules. The Ohio Stage II rules were submitted as a SIP revision on June 7, 1993. On October 20, 1994, the USEPA partially approved and partially disapproved Ohio's SIP revision for implementation of Stage II (58 FR 52911). As stated in that rulemaking action, with the exception of paragraph 3745-21-09 (DDD)(5), USEPA considers Ohio's Stage II program to fully satisfy the criteria set forth in the USEPA guidance document for such programs entitled "Enforcement Guidance for Stage II Vehicle Refueling Control Programs." Only those Stage II provisions previously approved by USEPA are part of the CAL area maintenance plan.

The Shapiro Memorandum states that once onboard regulations (FMVCP) are promulgated, the Stage II regulations are no longer applicable for moderate ozone nonattainment areas. The USEPA promulgated onboard rules on April 6, 1994 (59 FR 16262), therefore, pursuant to section 202(a)(6) of the CAAA, Stage II is no longer required. However, the State has opted to include reductions in VOCs from the Stage II program as part of the maintenance plan and the 15% Rate of Progress plan.

(f) Vehicle Inspection and Maintenance (I/M)

The OEPA submitted the I/M rules on May 26, 1994. The USEPA published a

direct final rule approving the rules on April 4, 1995. The direct final rule becomes effective on June 3, 1995.

The legislation authorizing the State to establish an I/M program also allows the State to implement an enhanced I/M program into an area's maintenance plan. The State is including enhanced I/M as a part of the maintenance plan and 15% plan for all of the counties in the CAL area except Ashtabula. Ashtabula was excluded because it was not required to have a vehicle I/M program under the pre-1990 CAA.

(g) 1.15 to 1.0 Offset

Section 182(b)(5) requires all major new sources or modifications in a moderate nonattainment area to achieve offsetting reductions of VOCs at a ratio of at least 1.15 to 1.0. The Mary Nichols memorandum states that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation so as they have an approved Prevention of Significant Deterioration (PSD) SIP or delegated PSD authority. The State has demonstrated that maintenance can be achieved without NSR offsets in effect, therefore, this requirement is not applicable. Upon redesignation to attainment, the sources will become subject to PSD requirements and offsets will no longer apply. Emissions will continue to be tracked on an annual basis.

(h) NO_x Requirement

Section 182(f) establishes NO_x requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_x reductions would not contribute to attainment. The Administrator has proposed such a determination for the CAL nonattainment area as requested by the State of Ohio (60 FR 3361). If the NO_x waiver is approved as a final rule, the State of Ohio need not impose the NO_x control measures in section 182(f) for the CAL area to be redesignated. However, if the NO_x waiver is not approved, the NO_x requirements must be met for the area to be redesignated from nonattainment to attainment. If a violation is monitored in the CAL area, the State has committed (as required) to adopt and implement NO_x RACT rules as a contingency measure to be implemented upon any violation of the ozone NAAQS which occurs after initial contingency measures are in place.

Transport of Ozone Precursors to Downwind Areas

Preliminary modeling results utilizing USEPA's regional oxidant model (ROM)

indicate that ozone precursor emissions from various States west of the ozone transport region (OTR) in the northeastern United States contribute to increases in ozone concentrations in the OTR. The State of Ohio has provided documentation that VOC and NO_x emissions in the CAL nonattainment area are predicted to remain below attainment levels for the next ten years. Should emissions exceed attainment levels, the contingency plan will be triggered. In addition, eight years after redesignation to attainment, Ohio is required to submit a revision to the maintenance plan which demonstrates that the NAAQS will be maintained until the year 2015. The USEPA is currently developing policy which will address long range impacts of ozone transport. The USEPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. The USEPA intends to address the transport issue through Section 110 based on a domain-wide modeling analysis.

III. Proposed Rulemaking Action and Solicitation of Public Comment

The State of Ohio has met the submission requirements of the CAAA for revising the Ohio ozone SIP. The USEPA is proposing approval of the redesignation of the CAL moderate nonattainment area, consisting of the counties of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit, to attainment for ozone. The USEPA is also proposing approval of the maintenance plan into the ozone SIP. As noted earlier, final approval of the CAL area request is contingent upon final approval of the required VOC RACT rules, Ohio's I/M SIP revision, the 15 percent Rate of Progress Plan, the attainment demonstration, the CAL base-year emissions inventory, and the NO_x waiver for the CAL area. However, as mentioned above, publication of a final rule determining that the CAL area has attained the NAAQS for ozone will remove the 15% plan and the attainment demonstration as requirements for final approval of the request for redesignation to attainment for ozone for the CAL area.

Public comments are solicited on USEPA's proposed rulemaking action. Public comments received by July 17, 1995 will be considered in the development of USEPA's final rulemaking action.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be

considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

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

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids 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).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of the state implementation plan or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The rules and commitments being proposed for approval in this action may bind State,

local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the rules and commitments being proposed for approval by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, the USEPA has determined that this action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects

40 CFR Part 52

Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control.

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

Dated: June 7, 1995.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 95-14685 Filed 6-14-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 300

[FRL-5220-9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete flowood site from the National Priorities List (NPL): Request for comments.

SUMMARY: EPA, Region IV (EPA) announces its intent to delete the Flowood Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

(CERCLA). EPA and the State of Mississippi (State) have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the state have determined that remedial activities conducted at the site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of this Site will be accepted until July 17, 1995.

ADDRESSES: Comments may be mailed to: Lt. Mark A. Marshall, USPHS, Remedial Project Manager, South Superfund Remedial Branch, Waste Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

Comprehensive information on this Site is available through the EPA Region IV public docket, which is located at EPA's Region IV office and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region IV Docket Office.

The address for the Regional Docket Office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone No.: (404) 347-2930.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: Pearl Public Library, 3470 Highway 80 East, Pearl, Mississippi 39208, telephone No.: (601) 932-2562.

FOR FURTHER INFORMATION CONTACT: Lt. Mark A. Marshall, USPHS, Remedial Project Manager, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347-2643 ext. 6271.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletions

I. Introduction

EPA announces its intent to delete the Flowood Site in Rankin County, Mississippi from the National Priorities List (NPL) which constitutes Appendix B on the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this

proposed deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action. EPA will accept comments concerning this Site for thirty (30) calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for the deletion of sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), releases may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required; or
- (ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- (iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, taking or remedial measures is not appropriate.

Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action.

III. Deletion Procedures

EPA will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this Site:

- (1) EPA has recommended deletion and has prepared the relevant documents.
- (2) The State has concurred with the deletion decision.
- (3) A local notice has been published in local newspapers and has been distributed to appropriate federal, state, and local officials, and other interested parties.