

Dated: June 22, 1995.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(96) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(96) On August 3, 1994 and February 6, 1995, the Indiana Department of Environmental Management submitted a requested SIP revision to the ozone plan for ozone nonattainment areas.

(i) *Incorporation by reference.*

(A) Indiana Administrative Code, Title 326: Air Pollution Control Board, Article 1: General Provisions, Rule 2: Definitions, Section 22.5 "Department" definition, Section 28.5 "Federally enforceable" definition, and Section 64.1 "Reasonably available control technology" or "RACT" definition. Added at 18 *Indiana Register* 1223-4, effective January 21, 1995.

(B) Indiana Administrative Code, Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 7: Specific VOC Reduction Requirements for Lake, Porter, Clark, and Floyd Counties. Added at 18 *Indiana Register* 1224-9, effective January 21, 1995.

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40 CFR Parts 52 and 81

[NC-061-1-7010; FRL-5226-3]

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: Final rule.

SUMMARY: EPA is approving a maintenance plan and a request to redesignate the Charlotte-Gastonia area from nonattainment to attainment for ozone (O₃) submitted on November 12, 1993, by the State of North Carolina through the North Carolina Department

of Environment, Health, and Natural Resources. Subsequently on December 16, 1994, January 6, 1995, and May 23, 1995, the State submitted supplementary information which included refined modeling and revisions to the maintenance plan. The Charlotte-Gastonia O₃ nonattainment area includes Mecklenburg and Gaston Counties. EPA is also approving the State of North Carolina's 1990 baseline emissions inventory because it meets EPA's requirements regarding the approval of baseline emission inventories.

EFFECTIVE DATE: July 5, 1995.

ADDRESSES: 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.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

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

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 O₃ 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 had ambient monitoring data that showed no violations of the O₃ NAAQS, during the period from 1990 through 1993.

Therefore, on November 12, 1993, the State of North Carolina submitted an O₃ maintenance plan and requested redesignation of the area to attainment with respect to the O₃ NAAQS. The O₃ NAAQS continues to be maintained in the Charlotte-Gastonia area. 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 O₃ NAAQS. The State requested the January 6, 1995, information be parallel processed by EPA. The State held a public hearing on April 19, 1995, and made a final submittal to EPA on May 23, 1995.

The North Carolina redesignation request for the Charlotte-Gastonia moderate O₃ 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 O₃ 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 1994 demonstrates attainment of the standard. The State of North Carolina has committed to continue monitoring the moderate nonattainment area in accordance with 40 CFR 58. Therefore, the State has met this requirement. For detailed information refer to the proposed document published April 17, 1995 (60 FR 19197).

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D of 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. For detailed information regarding applicable requirements other than section 182(f), refer to the proposed document.

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

North Carolina has met this requirement. This document gives final approval of the 1990 base line emissions inventory. For detailed information regarding how this requirement was met, refer to the proposal document.

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

As stated in the proposal document, North Carolina had met all RACT requirements except those in 182(b)(2), RACT Catch-ups. On January 7, 1994, the State submitted revisions to the SIP that addressed the RACT Catch-ups. The document approving those revisions was published on January 26, 1995 (see 60 FR 5138), and became effective on March 27, 1995. Therefore this requirement has been met. For detailed information regarding this requirement, refer to the proposal document.

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

In the proposal document, EPA stated that the North Carolina Emissions Statement regulation must be approved prior to or at the time of redesignation. On December 17, 1993, North Carolina submitted a revision to the SIP that met the requirements for an emission statement regulation. The document approving this revision was published on May 5, 1995 (see 60 FR 22284). No adverse comments were received, therefore, the effective date of the federal approval is July 5, 1995. Therefore this requirement has been met. For detailed information regarding this requirement, refer to the proposal document.

D. Section 182(b)(1)—15% Progress Plans

With the approval of this redesignation request, the requirement to submit a 15% plan is obviated because the redesignation request predated the requirement for a 15% plan. Additionally, on May 10, 1995, EPA, in a memorandum from John S. Seitz, Director, Office of Air Quality

Planning and Standards, issued a new policy regarding planning requirements of the CAA. Areas that have quality assured air monitoring data showing attainment with the ozone standard for the most recent three years are deemed to have attained the standard and such are not subject to certain requirements of subpart 2 of Part D of title I of the CAA. Specifically, a moderate area such as Charlotte-Gastonia would no longer be required to submit a 15% plan or an attainment demonstration. EPA has published a document making such finding with respect to the Charlotte-Gastonia area. See the proposal document for more detailed information.

E. Section 182(b)(3)—Stage II

On January 24, 1994, EPA promulgated the onboard vapor recovery rule (OBVR), and, 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. See the proposal document for more detailed information.

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

In the proposal document, EPA stated that the North Carolina I/M regulation must be approved prior to or at the time of redesignation. On July 19, 1993, North Carolina submitted a revision to the SIP that met the requirements for an I/M regulation. The document approving this revision was published on June 2, 1995 (see 60 FR 28720), and the revision is federally approved. For detailed information regarding this requirement, refer to the proposal document.

G. Section 182(b)(5)—New Source Review (NSR)

North Carolina has a fully-approved NSR program for moderate O₃ nonattainment areas. For detailed information regarding this requirement, refer to the proposal document.

H. Section 182(f)—Oxides of Nitrogen (NO_x) Requirements

This redesignation request predated the November 15, 1993, requirement for the submittal of NO_x RACT rules. Therefore, NO_x RACT is not an applicable requirement for purposes of this redesignation request. However, the State has submitted revisions that would require NO_x RACT should the area violate the O₃ NAAQS. This submittal pre-adopts NO_x RACT rules as a contingency measure. Since

contingency measures for maintenance are not required to be pre-adopted, approval of this submittal is not a requirement for redesignation. Action on that submittal will be taken in another document since it is not an applicable requirement for purposes of this redesignation request. For more detailed information regarding this requirement, refer to the proposal document.

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 the Charlotte-Gastonia area has a fully approved O₃ SIP under section 110(k).

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 O₃ 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.

EPA is approving the State of North Carolina's maintenance plan for the Charlotte-Gastonia nonattainment area

because EPA finds that the State's submittal meets the requirements of section 175A.

A. Emissions Inventory

a. Base Year Inventory

On November 13, 1992, the State of North Carolina submitted comprehensive inventories of VOC, NO_x, and carbon monoxide (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. This action approves the final base year inventory for the Charlotte-Gastonia area. A summary of the base year inventory is included in the table below.

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

Category	NO _x	VOC	CO
Point	31.25	33.99	35.27
Area	4.92	67.59	25.00
Non-road	15.52	19.38	138.45
Biogenic	2.78	54.41	0

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

Category	NO _x	VOC	CO
Mobile	61.64	50.81	371.26
Total	116.11	226.18	569.98

b. Emission Budget for Conformity

EPA's transportation conformity regulation requires that states adopt an emissions budget for conformity for ozone precursors in maintenance areas. Therefore, the State of North Carolina has adopted the following emissions budget:

CONFORMITY EMISSIONS BUDGET

Source cat. and county	1999 NO _x (TPD)	1999 VOC (TPD)	2005 NO _x (TPD)	2005 VOC (TPD)
Mobile:				
Mecklenburg	33.5	25.5	33.0	25.9
Gaston	9.3	6.3	8.7	5.7
Point:				
Mecklenburg	2.6	23.0	2.8	24.3
Gaston	79.5	7.3	79.7	7.5
Area:				
Mecklenburg	3.7	23.0	3.9	33.3
Gaston	1.3	16.7	1.4	16.5
Non-road:				
Mecklenburg	18.6	20.2	17.8	22.5
Gaston	4.8	5.6	4.1	5.8

EPA will be taking separate rulemaking action on conformity emission budgets.

B. Demonstration of Maintenance—Urban Airshed Modeling

a. 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). On December 16, 1994 and January 6, 1995, the State submitted a revision to the original maintenance plan submitted to EPA on November 12, 1993, requesting that EPA parallel process the revisions. These submittals which included revisions to the modeling pursuant to EPA comment and additional corrections to the modeling were presented at the public hearing held in Charlotte on April 19, 1995. The modeling analysis included base and future case modeling completed according to guidelines presented in the EPA document "Guideline for Regulatory Application of the Urban Airshed Model." 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 predicted a small number of grid cells (< 1 %) above .124 parts per million (ppm) for both 1999 and 2005, with the maximum level predicted of .129 ppm. The analysis of control options showed that NO_x controls would be more effective in the maintenance of the standard in the Charlotte/Gastonia area, and, hence, the State originally selected a strategy that consisted primarily of additional controls of NO_x emissions. The selected control strategy included 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_x 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_x requirements on Duke Power's Allen and Riverbend facilities in Gaston County for the months of June, July, and August.

The State also took 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. After consideration of the comments at the public hearing, the North Carolina Environmental Management Commission adopted the maintenance plan without additional controls on May 11, 1995.

2. Request for Comments

As requested by the State, EPA is parallel processing the request and therefore published a document on April 17, 1995, proposing approval of the maintenance plan and redesignation request and soliciting comment on the following control scenarios:

a. Adoption and implementation in 1999 of the five measures as detailed above;

b. Adoption and implementation in 1999 of the five measures as detailed above with enhanced I/M substituted for the reformulated gasoline program;

c. 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

d. Approval of the request as demonstrating maintenance with no additional VOC or NO_x controls.

EPA received a number of comments on the proposal and the control scenarios. Those comments and the response thereto are summarized below.

Comment #1—Rather than controlling emissions, the plan allows an increase in NO_x emissions of 25 tons per day by 1999 in the nonattainment area and additional increases throughout the modeling domain.

Response—Section 175A of the CAA requires that a plan showing maintenance of the applicable NAAQS for 10 years after redesignation be incorporated as revision to the SIP. In a September 4, 1992, memorandum from John Calcagni, Director, Air Quality Management Division, EPA issued guidance on the requirements for redesignation of areas from nonattainment to attainment. That guidance contains two primary methods a state may use to demonstrate maintenance of the O₃ NAAQS for an area. The first method is an emissions inventory demonstration which includes emission projections showing no increases in emissions of O₃ precursors, i.e., NO_x and VOC, in the designated nonattainment area throughout the 10 year maintenance period. This method would not allow the projected increase in emissions of NO_x in the nonattainment counties. The second method is a modeling demonstration showing that the projected levels of emissions of O₃ precursors would not cause a violation of the NAAQS. The guidance further stipulates that the level of modeling required must be at least that required by the CAA for an attainment demonstration for the area. Since the Charlotte-Gastonia area is a moderate intra-state area, the level of modeling required would have been EKMA or its equivalent. However, the State of North Carolina chose to use the UAM model which is required for inter-state moderate areas as well as serious and above areas.

For the reasons explained in the proposal and in the responses to comments on the modeling provided below, EPA believes that the modeling demonstration, which evaluated a strategy with a combination of decreases in VOC emissions and increases in NO_x emissions, submitted by the State of North Carolina adequately demonstrated maintenance of the NAAQS notwithstanding the projected increase in NO_x emissions. Therefore, EPA believes that the increases in NO_x emissions are permissible.

Comment #2—Concern was expressed regarding the emission increases projected for Duke Power sources located in the area. It was suggested that for equity, Duke Power should be required or provided incentives to install additional emission controls.

Response—The Duke Power plants in question are subject to EPA's acid rain provisions and reductions in NO_x emissions will be obtained from this program. Neither the CAA nor the EPA require a specific set of measures to ensure maintenance of the O₃ NAAQS, but rather the state determines for each area what additional reductions, if any, are necessary. The EPA then determines the adequacy of the plan. EPA has determined, as explained elsewhere, in this document and the proposal, that the existing control system is adequate to ensure maintenance of the NAAQS for ten years.

Comment #3—North Carolina has consistently stated that additional controls are necessary to maintain the standard and that controls on sources of NO_x emissions are the most effective.

Response—The State's assertion that additional NO_x controls would be necessary to maintain the NAAQS after 1999 was based on the UAM modeling and the view that every grid cell must be below the standard in order to demonstrate maintenance. However, EPA has determined, as discussed in the proposal and elsewhere in this document, that the State's modeling demonstration adequately demonstrates maintenance of the NAAQS without additional control measures.

Comment #4—Monitored daily maximum ozone concentrations over the last five years indicate that the nonattainment area has been on the verge of violating the O₃ NAAQS. Furthermore, the modeling predicts future exceedances of the NAAQS for all three episodes.

Response—Although two monitors in the ozone nonattainment area and one monitor in an adjacent county recorded two exceedances of the O₃ NAAQS in 1993, there have been no violations of the NAAQS in the last five years.

Furthermore, there were no exceedances recorded at any monitor in the area in 1992 or 1994. An area is allowed one exceedance of the NAAQS per year with a three year average used to determine attainment/nonattainment status. Therefore, since the expected exceedance rate for the area is 0.67 which is less than 1.1 and since all monitors are currently monitoring attainment of the NAAQS, EPA believes that the monitoring data is sufficient to support redesignation of the area to attainment. EPA's Response to the comments regarding the modeling is contained in EPA's Response to Comment #5.

Comment #5—One Commenter provided detailed Comments individually on each of the six items listed in the proposal as support for EPA's determination that the modeling demonstration is sufficiently conservative for EPA to conclude that the NAAQS can be maintained without additional emission controls. In the proposal, EPA explained that while its 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 went on to explain its belief that North Carolina's modeling for the Charlotte-Gastonia area was sufficiently conservative to provide an adequate demonstration of maintenance without the adoption of additional controls notwithstanding the model's prediction of slight exceedances of the standard in a few grid cells. That belief was based on the combination of the following six 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 O₃ season.

(3) The O₃ 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 O₃ 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_x and O₃ boundary conditions expected when SIP attainment and title IV (acid rain program) control programs have been

implemented in many areas throughout the United States.

This commenter took issue with each of the six factors that EPA referenced in the proposal.

Response—Before responding to the comments on each of the six factors individually, EPA notes that, as indicated in the proposal, it was the combination of factors—not necessarily any particular factor standing alone—that supports EPA's determination that the modeling provides an adequate demonstration that the ozone NAAQS will be maintained in the absence of the adoption of additional control measures. Furthermore, as explained below, the Comments made with respect to each of the factors individually fail to undermine the validity of EPA's conclusion that the modeling provides an adequate demonstration of maintenance. Although the commenter made relevant points, EPA believes that when considered together, on balance the factors support the conclusion that North Carolina has adequately demonstrated that the Charlotte-Gastonia area will maintain the standard.

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

With three years of air quality showing attainment an area can request redesignation. North Carolina's request is strengthened by the fact that it has five years of air quality data showing no violations of the O₃ NAAQS.

Based upon a trend analysis performed by EPA, meteorologically adjusted O₃ trends in Charlotte (and surrounding areas) have shown a modest but consistent improvement of approximately 1 percent per year between 1983 and 1993. However, the most recent five years analyzed (1988–1993) have shown an accelerated rate of improvement of approximately 2 to 3 percent per year (10 percent over the five year period) suggesting that recent ozone air quality is improving when meteorological conditions are eliminated.

Moreover, EPA has conducted an analysis of the O₃ potential in the major urban areas, including Charlotte, using available meteorological data collected over the past 41 years. The study (currently undergoing review for publication in *Atmospheric Environment*), indicates that meteorological conditions favoring high O₃ ranked the summer of 1993 as the 2nd most severe O₃ year in the past 41 years. The two years, 1988 and 1987 were ranked 7th and 4th, respectively. The meteorology for all three years was very conducive to producing high O₃

concentrations. Since North Carolina did not have a violation in 1993 under meteorological conditions of comparable severity to the 1988 and 1987 modeling analyses, this supports the redesignation demonstration.

Although NO_x emissions are projected to increase over the maintenance period, i.e. from the 1990 base line inventory, the State of North Carolina's experience in other similar areas (Raleigh/Durham and Greensboro/Winston-Salem) suggests that total NO_x emissions in 1999 will be less than 1993. Specifically, the projected emissions from the three area power plants in 1999 that are the area's primary NO_x sources are less than the actual emissions from those plants in 1993. Since the area was able to maintain the standard despite the higher NO_x emissions and adverse meteorological conditions in 1993, it would be expected that the projected decrease in power plant emissions would support the ability for the area to continue to maintain the O₃ NAAQS.

(2) The maintenance plan contains pre-adopted measures and a violation would trigger reduction in emissions by the following ozone season. While it is true that the presence of pre-adopted measures in the maintenance plan triggered by a violation does not make the modeling analysis conservative, it does add strength to the package as a whole and will allow the State to implement new controls to quickly address any future nonattainment problem. The State has done preliminary modeling analysis on both the pre-adopted and the other contingency measures listed in the plan which will assist the State in timely implementation of the most effective measures.

Additionally, the contingency plan contains a secondary trigger which is 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 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 keep the area in attainment, with the regulatory adoption process for any necessary measures beginning by May 1 of the following year. As the contingency measures based on the secondary trigger should help the area stay in attainment, those measures should also help the area maintain the standard and do provide an additional level of assurance that the area will maintain the standard.

(3) The O₃ standard is a statistically based NAAQS that allows one exceedance per year.

Developing an attainment test using gridded concentrations for a few selected days to match a NAAQS determination which uses sparsely located monitors for a complete hourly O₃ season is not simple. Recognizing the severity of O₃ forming potential for selected episodes, as well as the NAAQS allowing one exceedance at each monitor location over a three year period, led EPA to consider how stringent the model test of requiring every grid cell modeled across the domain to be below 124 ppb for all hours might be. Again, based on the severity of the years modeled, EPA believes the modeling demonstration indicates that a few grid cells would exceed 124 ppb by a slight amount (less than 1% with a maximum value of 129 ppb) is within a margin of safety that the NAAQS will be maintained provided the contingency measures in the plan are identified and implemented, if the need is indicated by monitored data. As indicated previously, the State's plan contains a secondary trigger for contingency measures based on an exceedance of the O₃ NAAQS that would indicate a violation is imminent.

(4) North Carolina has done extensive modeling to gain an understanding of the creation of O₃ in the Charlotte area and has generally made conservative assumptions in selecting modeling inputs.

EPA recognizes and allows for uncertainty in model estimates as part of the model performance evaluation conducted prior to use in strategy development. EPA guidance includes recommended ranges for statistical performance measures. For the North Carolina application, although model estimates were sometimes below the observed highest concentrations (base case), overall the performance results suggest that UAM is unbiased and is therefore expected to produce unbiased estimates of future air quality assuming unbiased (non-conservative) estimates of future emissions and boundary conditions are used.

In fact, North Carolina was conservative in its choice of model, years to simulate, boundary conditions and emissions growth factors. Although, North Carolina was not required to do so, it chose to use UAM so as to better understand and quantify the effect of ozone precursors in the area and thus identify the most cost effective strategy for maintaining the NAAQS. EPA believes North Carolina did select years that are conducive to high levels of O₃ (also see discussion above) and chose

episodes for which some of the highest O₃ levels were observed in the area. North Carolina used boundary concentrations along the North Carolina domain that were only reduced by 5 percent (O₃, NO_x, and VOC) so that the maximum level of ozone was 120 ppb for the July 1988 northerly transport episode. It is quite likely that the combined effect of VOC/NO_x controls throughout the eastern U.S. will result in O₃ boundary levels that are below those used in this modeling exercise. Finally, North Carolina used the 1990 BEA growth factors to project emissions. These factors were derived before the CAA mandated controls were implemented and do not take into consideration changes in business behavior that has occurred as companies have applied expenditures towards control measures rather than expansion. Also, the 6 year window, 1988–93, used to estimate VMT growth includes very high growth years and the area is not expected to continue to grow at that rate. If the State had elected to use lower boundary conditions and lower growth rates, as allowed by EPA guidelines, it is likely that the modeling would have predicted ozone levels of 124 ppb or below in all grid cells.

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

(The sentence above, as included in the proposal document, contained a typographical error, as it read “* * * the range of the 2–3 ppb * * *”)

As discussed in the response to item (4) above, North Carolina made very conservative assumptions on model inputs for the NC application which are within the 2–5 ppb reductions needed to reach 124 ppb. Based on EPA guidance, North Carolina used the most current and only regulatory version of the biogenic model available to states at the time of its modeling analyses. The new version of the biogenic model, BEIS2, is just now being released for use by states. The impact of the new model on O₃ predictions is still being evaluated. The State of North Carolina has a commitment to perform modeling analyses in the future and will use the most current methodologies for all modeling inputs including BEIS as well as the most current model.

(6) The modeling did not account for lower VOC, NO_x and O₃ boundary conditions expected when SIP attainment control programs have been implemented in many areas through the United States.

Contrary to the assertions of the commenter, boundary conditions are

relevant to modeling episodes for Charlotte. North Carolina modeled two transport episodes and one stagnation episode. As indicated above, conservative assumptions on boundary conditions were made for the July 1988 transport episode. The boundary conditions for the other two episodes, including the stagnation episode, were not reduced. As states and the Environmental Council of States (ECOS) embark on the Phase II modeling efforts, North Carolina is within the regional domain being evaluated. If regional or more local controls appear warranted based on new analysis, North Carolina will be notified and EPA is confident that the State will work with EPA (using better information as it becomes available) to make any adjustment needed to maintain the NAAQS in the Charlotte area.

Comment #6—The maintenance plan was developed without regard for the potential effects on the Southern Appalachian Mountains despite North Carolina's commitment to the Southern Appalachian Mountain Initiative (SAMI).

Response—The Charlotte-Gastonia modeling analysis was not specifically designed to evaluate the effects of the plan on the Southern Appalachian Mountains. Only the O₃ inputs in the Charlotte-Gastonia airshed were required for analysis of the redesignation of the Charlotte-Gastonia area. The meteorological episodes modeled for the redesignation request, while significant for O₃ formation in the Charlotte-Gastonia area, do not include a situation where emissions from the Charlotte-Gastonia area are transported into the mountain region, which is currently in attainment and is not adjacent to the Charlotte-Gastonia area. Additionally, approval of this maintenance plan and redesignation request does not preclude additional controls being required on the sources in the Charlotte-Gastonia area as a result of future analysis indicating that such controls are necessary to protect air quality in the mountain region. In the event such controls are found to be necessary, EPA has the authority under section 110(b)(2) to require the adoption of control measures if the State fails to do so.

Comment #7—There were several comments regarding the proposal by the State to require Phase II reformulated gasoline (RFG) in a seven county area beginning in 1999. The commenters noted that since the CAA requires Phase II RFG in some areas beginning in 2000, that the fuel may not be available in 1999. Furthermore, several commenters indicated their belief that an enhanced

I/M program would be of greater benefit at a lower cost in controlling ozone.

Response—As the maintenance plan approved by EPA in this final action does not include either Phase II RFG or enhanced I/M as a measure for maintenance of the NAAQS, issues regarding the use of Phase II RFG or enhanced I/M as maintenance measures are no longer pertinent.

Comment #8—It was commented that the contingency plan should not include a list of specific options in the maintenance plan and that contingency measures should not be pre-adopted.

Response—While the commenter is correct that contingency measures do not have to be pre-adopted, a state may choose whether or not to pre-adopt any or all of the listed contingency measures. However, EPA policy does require that the maintenance plan include a list of possible contingency measures and a schedule for implementing those measures that are determined to be necessary to ensure continued maintenance of the NAAQS. EPA's policy is based on section 175A, which requires that maintenance plans “contain such contingency provisions as the Administrator deems necessary to assure that the state will promptly correct any violation of the standard which occurs after” redesignation. In any event, the State did not include additional pre-adopted measures in the final submittal.

Comment #9—The secondary trigger should be eliminated because it is vague and would raise questions about federal enforceability. Additionally, one commenter believes interpretation that an exceedance of the NAAQS should cause a contingency measure to be adopted is too stringent.

Response—While EPA policy and section 175A require only that a maintenance plan contain contingency measures triggered by a violation of a NAAQS, EPA has encouraged states to select triggers based on events short of a violation in order to prevent violations from occurring so that the area continues to maintain the NAAQS or to bring the area back into attainment more quickly should a violation occur after the trigger event has occurred. For example, the September 4, 1992, memorandum from John Calcagni suggests that states use indicators such as monitoring, modeling and inventory levels to identify when early action may prevent a violation.

The secondary trigger in the Charlotte-Gastonia maintenance plan is used as an alert for the State that action may be needed to ensure continued maintenance of the NAAQS. The resulting analysis may or may not

indicate additional controls are needed. This mechanism is perfectly consistent with the purpose of a maintenance plan which is to ensure continued maintenance of the NAAQS. EPA believes that the use of the secondary trigger will help North Carolina not only to bring the area back into attainment quickly but to also prevent violations from occurring.

EPA does not believe the use of an exceedance of the NAAQS as an indicator which may lead to additional controls causes an enforcement problem. Under 40 CFR 51.110, states are required to develop control strategies for the attainment and maintenance of NAAQS. These strategies must provide for both the attainment of the standards in nonattainment areas and the maintenance of those standards in attainment areas. Since NO_x and VOC are defined as precursors to O₃, a criteria pollutant for which there is a NAAQS, emission reductions of NO_x and/or VOC are federally enforceable in attainment areas provided they are part of the federally-approved SIP. As the CAA requires SIPs for areas redesignated to attainment to include measures necessary to maintain the NAAQS, emission reductions required for maintenance of the standard in the future would be federally enforceable.

Comment #10—If contingency measures are triggered in the near-term (i.e., before 2003), additional modeling should not be required unless there has been a significant change in the model inputs and assumptions.

Response—North Carolina's contingency plan states that additional analysis will be done if necessary. Therefore, such analysis is not required, but is within the State's discretion to do if there have been significant changes in model inputs and assumptions or control technology to warrant a new analysis. EPA believes the contingency plan is approvable as written as it provides adequate assurance that violations will be corrected promptly in accordance with section 175A.

Comment #11—The contingency options from which the State could choose should continue to include RFG or enhanced I/M, clean fuel fleet provisions, open burning restrictions, summer NO_x controls from Transcontinental Gas Pipe Line Corporation and 10% beyond title IV from Duke Power's Riverbend and Allen plants during the summer. In addition, NO_x and possibly VOC RACT should be available as contingency measures.

Response—The final submittal from the State includes in their list of possible contingency measures

additional NO_x and VOC RACT or greater controls on sources, particularly Duke Power and Transcontinental Gas Pipe Line Corporation, Stage II vapor control, RFG, enhancements to the I/M program, clean fuel fleets and any other measures that may be appropriate and feasible. The State also indicated it intends to develop an economic incentive program that would provide incentives to sources that purchase clean alternative vehicles. Although the State could not adopt RFG rules without receiving a section 211(c)(1) waiver of preemption from EPA, EPA believes that North Carolina has identified an adequate and appropriate list of contingency measures in light of the numerous measures it has listed.

Comment #12—The time schedule provisions of section 181(b) of the CAA are equally applicable to stationary and mobile sources. If contingency measures are needed in the future, the time schedules of the CAA should not be preferentially offered to mobile sources unless stationary sources have the same option.

Response—Stationary source controls can often be implemented on a faster time frame than mobile source controls. It is generally clear what sources are subject to such rules and what is required for a source to comply. Mobile source measures are more difficult to develop and implement as there is a greater need for public education on mobile related programs. They also often take more time to implement. One of the primary considerations for choosing a contingency measure to implement is the time needed to develop, adopt and implement the measures necessary to prevent or correct a NAAQS violation. If the analysis shows that stationary sources play an important role in such a strategy, then implementation should be achieved as soon as possible.

Comment #13—The contingency plan should provide the State with the flexibility to implement all, or any subset, of the above contingency measures as a first round of controls, if needed. However, once one of the contingency measures has been chosen and activated from the above list, no additional controls would be imposed on that category of sources until the other first round contingency control options have been activated. If a second round is required, then modeling should be used to develop a new balanced and cost-effective strategy.

Response—The primary purpose of the contingency plan is to bring an area back into attainment should the area violate the NAAQS after redesignation. The choice of which measures to

implement lies with the state so long as the measures from which the state is choosing are effective. The North Carolina contingency plan provides the State with adequate flexibility to enact the measures which will be most effective in returning the area to attainment.

C. Verification of Continued Attainment

Continued attainment of the O₃ 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_x emissions in the nonattainment area will largely determine its ability to stay in compliance with the O₃ NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, the State of North Carolina has provided contingency measures with a schedule for implementation in the event of a future O₃ air quality problem. The actual measures will be determined from the analysis process described in

the Verification of Continued Attainment portion of this document. The measures analyzed will include RACT or greater level control for NO_x and VOC sources, particularly Duke Power and Transcontinental Gas Pipe Line Corporation, Stage II vapor control for gasoline dispensing facilities, RFG, enhancements to the I/M program, clean fuel fleet program, transportation control measures, and any other appropriate and feasible 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. Additionally, the State has indicated that should analysis of the current pre-adopted RACT contingency measures demonstrate that they will not be the most effective in bringing the area back into attainment, they may revise these pre-adopted measures in the future. Furthermore, based on updated analysis, the State has indicated they may periodically revise the contingency plan. All such revisions will be subject to full public participation in the regulatory adoption process.

Final Action

EPA approves the State of North Carolina's request to redesignate to attainment the Charlotte-Gastonia O₃ nonattainment area and maintenance plan. As discussed above, the emission statement, RACT catch-ups, and I/M requirements have been approved. EPA also approves the 1990 baseyear inventory for the Charlotte-Gastonia nonattainment area.

EPA finds that there is good cause for this redesignation to become effective immediately upon publication because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which exempts the area from certain Clean Air Act requirements that would otherwise apply to it. The immediate effective date for this redesignation is authorized under both 5 U.S.C. section 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction" and section (d)(3), which allows an effective date less than 30 days after publication "as otherwise

provided by the agency for good cause found and published with the rule."

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 5, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted 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.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA 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 this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175(A) and section 187(a)(1) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final 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

Environmental protection, 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: June 19, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(83) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(83) The maintenance plan and redesignation request for the Charlotte-Gastonia area which include Mecklenburg and Gaston Counties submitted by the State of North Carolina on November 12, 1993.

(i) Incorporation by reference.

(A) The following subsections of Section 3.0, entitled Maintenance Plan,

in the Supplement To The Redesignation Demonstration and Maintenance Plan for the Charlotte/Gaston Ozone Nonattainment Area adopted by the North Carolina Environmental Management Commission on May 11, 1995: 3.1 Concept of North Carolina's Maintenance Plan; 3.2 Foundation Control Program; Table 3.2 of

Subsection 3.3; and 3.4 Contingency Plan.
(ii) Other material. None.

PART 81—[AMENDED]

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

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

2. In §81.334, the ozone table is amended by removing the Charlotte-

Gastonia area and its entries in the first alphabetical list and by adding in alphabetical order entries for "Gaston County" and "Mecklenburg County" to the second listing of counties to read as follows:

§ 81.334 North Carolina.
* * * * *

NORTH CAROLINA—OZONE

	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Rest of State		Unclassifiable/Attainment		
* * * * *				
Gaston County	July 5, 1995.			
* * * * *				
Mecklenburg County	July 5, 1995.			
* * * * *				

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

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[FR Doc. 95-16358 Filed 7-3-95; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 52

[NC59-2-6942a; NC55-1-6497a; NC54-1-6496a; FRL-5253-3]

Designation of Areas for Air Quality Planning Purposes; State of North Carolina

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This document accelerates the effective date for the promulgation of basic motor vehicle inspection and maintenance (I/M) program modifications in the Winston-Salem and Raleigh/Durham maintenance areas and the Charlotte-Gastonia ozone nonattainment area. EPA previously published a direct final rule approving the North Carolina basic I/M state implementation plan (SIP) revision effective July 17, 1995. Since no comments were received during the public comment period on that document, and the I/M program is required for the Charlotte-Gastonia redesignation, this document makes the I/M revision effective July 5, 1995.

EFFECTIVE DATE: This action will be effective July 5, 1995.

ADDRESSES: Environmental Protection Agency, Region 4 Air Programs Branch,

345 Courtland Street NE., Atlanta, Georgia 30365.
FOR FURTHER INFORMATION CONTACT: Ben Franco, 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 4211.

SUPPLEMENTARY INFORMATION: On June 2, 1995, EPA published a direct final rule (see 60 FR 28726) approving a revision to the North Carolina basic I/M SIP. The document stated the effective date of the I/M rule would be July 17, 1995, if no adverse comments were received by July 3, 1995. No adverse comments were received. The I/M rule is a requirement for the Charlotte-Gastonia area and must be effective prior to the ozone redesignation of the area. If the redesignation of the Charlotte-Gastonia area is not approved prior to July 28, 1995, sanctions would be imposed for a brief period. Therefore, the acceleration of the effective date for this rule will permit the Agency to redesignate the Charlotte-Gastonia ozone nonattainment area prior to the imposition of sanctions.

The 18-month clock leading to the imposition of sanctions was started by a letter dated January 28, 1994, in which EPA found that the State of North Carolina had failed to submit a SIP for the 15% plan and correction to the basic I/M program by November 15, 1992. The State subsequently submitted a complete SIP for the corrections to the

I/M program. Once the area is redesignated, the 15% plan is no longer an applicable requirement.

Final Action

The EPA published approval of the I/M SIP on June 2, 1995 (see 60 FR 28720) without prior proposal because the Agency viewed this as a noncontroversial amendment and anticipated no adverse comments. Since no comments were received, the redesignation is effective July 5, 1995.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping, Nitrogen oxides, Ozone.

Dated: June 27, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95-16469 Filed 7-3-95; 8:45 am]

BILLING CODE 6560-50-P