

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 175A 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. 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.

The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the 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 approving West Virginia's Emission Statement Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 14, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 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 XX—West Virginia

2. Section 52.2520 is amended by adding paragraphs (c)(34) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(34) Revisions to the West Virginia State Implementation Plan submitted by the Secretary, West Virginia Department of Commerce, Labor, and Environmental Resources, Office of Air Quality, on August 10, 1993.

(i) Incorporation by reference.

(A) Letter dated August 10, 1993 from the Secretary, West Virginia Department of Commerce, Labor, and Environmental Resources, Office of Air Quality submitting 45 Code of State Regulations (CSR) Series 29 "Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions" as a revision to the West Virginia State Implementation Plan. The effective date of this rule, 45CSR29 is July 7, 1993.

(B) West Virginia Regulation Title 45, Series 29, "Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions," consisting of Subsections: 1. General; 2. Definitions; 3. Applicability; 4. Compliance Schedule; 5. Emission Statement Requirements; 6. Enforceability; and 7. Severability, effective July 7, 1993.

(ii) Additional Material.

(A) Remainder of August 10, 1993 State submittal pertaining to 45 CSR Series 29, "Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions."

(B) [Reserved]

[FR Doc. 95-19272 Filed 8-3-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[WV27-1-7013a, WV27-2-7014a; FRL-5265-9]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Greenbrier County WV Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a redesignation request and two State

Implementation Plan (SIP) revisions submitted by the State of West Virginia. The first SIP revision is the 1990 base year ozone inventory for Greenbrier County. The second SIP revision establishes and requires a maintenance plan for the Greenbrier County area including contingency measures which provide for continued attainment of the ozone National Ambient Air Quality Standard (NAAQS). The intended effect of this action is to approve the 1990 base year ozone inventory, a redesignation request and the maintenance plan for Greenbrier County. On December 22, 1992 the West Virginia Department of Commerce, Labor & Environmental Resources submitted an ozone inventory for 1990. On September 9, 1994, the West Virginia Division of Environmental Protection (WVDEP) submitted a request to redesignate Greenbrier County from nonattainment to attainment. On September 9, 1994, the WVDEP also submitted a maintenance plan for Greenbrier County as a revision to the West Virginia State Implementation Plan. This action is being taken under sections 107 and 110 of the Clean Air Act (the Act).

DATES: This action will become effective September 18, 1995 unless notice is received on or before September 5, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the West Virginia Division of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 597-0545.

SUPPLEMENTARY INFORMATION:

I. Background

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) of the Act, in conjunction with the Governor of West Virginia, EPA was required to designate Greenbrier County as nonattainment because the area violated the ozone standard in 1987–1989.

Air quality data, recorded in the Greenbrier County area, met the ozone NAAQS from 1989–1991 and has subsequently continued to indicate attainment and maintenance through 1994. West Virginia submitted a ozone maintenance SIP and redesignation request on September 9, 1994.

II. Review of West Virginia's Submittal

Following is a brief description of how the State of West Virginia's September 9, 1994 submittal fulfills the five requirements of section 107(d)(3)(E) of the Act. 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. Because the base year emissions inventory is an integral element of the maintenance plan, EPA will discuss its evaluation under its analysis of the maintenance plan. A Technical Support Document (TSD) has also been prepared by EPA on these rulemaking actions. The TSD is available for public inspection at the EPA Regional office listed in the ADDRESSES section of this notice.

1. Attainment of the Ozone NAAQS

The submittal contains an analysis of ozone air quality data which is relevant to the maintenance plan and to the redesignation request for the Greenbrier County ozone nonattainment area. Ambient ozone monitoring data for 1989 through 1994 show attainment of the ozone NAAQS in Greenbrier County, West Virginia. See 40 CFR 50.9 and appendix H. The State of West Virginia's request for redesignation included documentation that the entire area has complete quality assured data showing attainment of the standard over the most recent consecutive three calendar year period. Therefore the area has met the first statutory criterion of attainment of the ozone NAAQS. West Virginia has also met the second statutory criterion by committing to continue monitoring the air quality in this area in accordance with the Act's requirements as prescribed in 40 CFR part 58.

2. Meeting Applicable Requirements of Section 110 and Part D

As previously stated, EPA fully approved the State of West Virginia SIP for Greenbrier County, West Virginia as meeting the requirements of section

110(a)(2) and Part D of the 1977 Act. The Clean Air Act Amendments of 1990, however, modified section 110(a)(2) and, under Part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, EPA has reviewed the SIP and determined that it contains all measures that were due under the Act prior to September 9, 1994, the date the State of West Virginia submitted its redesignation request satisfying the completeness criteria of 40 CFR Part 51 Appendix V.

2.A. Section 110 Requirements

Although section 110 of the 1977 Act was amended in 1990, the Greenbrier County, West Virginia SIP meets the requirements of section 110 (a)(2) of the amended Act. A number of the requirements did not change in substance and, therefore, EPA believes that the preamendment SIP met these requirements. As to those requirements that were amended many duplicate other requirements of the Act (see 57 FR 27936 and 23939, June 23, 1992). EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2) of the Act. The SIP contains enforceable emission limitations adequate to produce attainment, requires monitoring, compiling, and analyzing ambient air quality data. It provides for adequate funding, staff, and associated resources necessary to implement SIP requirements, and requires stationary source emissions monitoring and reporting.

2.B. Part D Requirements

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

Under section 172(b), the section 172(c) requirements are applicable no later than three years after an area has been designated as nonattainment under the Act. For Greenbrier County which was first designated nonattainment on January 6, 1993, these section 172(c) requirements would have become due January 6, 1995. Therefore, these section 172(c) requirements were not applicable to ozone nonattainment areas on or before September 9, 1994—the date the State of West Virginia submitted a complete redesignation request and maintenance plan for Greenbrier County. The Greenbrier County area currently has a fully approved New Source Review (NSR) program. Upon redesignation of this area to attainment, the prevention of significant deterioration provisions (PSD) contained in part C of title I of the Act

are applicable. EPA approved West Virginia's PSD program on April 11, 1986 (51 FR 12517) which, under the approved SIP, applies in all designated attainment areas.

2.B.2. Subpart 1 of Part D—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 Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the Implementation of Title I informed states that the conformity regulations would establish submittal dates (see 57 FR 13498, 13557 (April 16, 1992)). The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. Pursuant to § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of West Virginia is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule November 25, 1994. Similarly, West Virginia is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals had not yet come due before September 9, 1994, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request. West Virginia has adopted transportation and general conformity regulations and submitted these

complete regulations as revisions to the West Virginia SIP on November 13, 1994. The West Virginia conformity SIP revisions are the subject of separate rulemaking actions.

2.B.3. Subpart 2 of Part D—Section 182 Provisions for Ozone Nonattainment Areas

The Greenbrier County nonattainment area is classified as marginal and is subject to the requirements of section 182(a) of the Act. As of September 9, 1994, the State was required to meet the emission inventory requirement of section 182(a)(1) and the emissions statement program requirement of section 182(a)(3)(b).

Section 182(a)(1) required an emissions inventory as specified by section 172(c)(3) of actual emissions of carbon monoxide (CO), volatile organic compounds (VOC) and nitrogen oxides (NO_x) from all sources by November 15, 1992. On December 22, 1992, West Virginia submitted an emissions inventory for 1990 (the "base year inventory") which EPA determined to be complete on April 16, 1993. Section 182(a)(3)(B) required a SIP revision by November 15, 1992 to require stationary sources of VOC and NO_x emissions to report the actual emissions of these pollutants annually. On November 12, 1992, West Virginia submitted 45CSR29 "Rule Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions And Oxides of Nitrogen Emissions". EPA is approving the base year inventory as part of this rulemaking action. EPA is approving West Virginia Regulation Title 45, Series 29, "Rule Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions and Oxides of Nitrogen Emissions" in a separate rulemaking action also being published in today's **Federal Register**.

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

EPA has determined that the State of West Virginia has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and Part D as discussed above. Therefore, the redesignation requirement of section 107(d)(3)(E)(ii) has been met.

4. Improvement in Air Quality Due to Permanent and Enforceable Measures

Under the 1977 Act, EPA approved the State of West Virginia SIP control strategy for the Greenbrier County, West Virginia area. EPA determined that the

rules and the emission reductions achieved as a result of those rules are enforceable.

Several other enforceable control measures have come into place since the Greenbrier County, West Virginia area violated the ozone NAAQS. Reductions in ozone precursor emissions occurred due to the mandatory lowering of fuel volatility and automobile fleet turnover due to the Federal Motor Vehicle Control Program. The Reid Vapor Pressure (RVP) of gasoline decreased during the years 1990 to 1992 from 9.5 pounds per square inch (psi) to 9.0 psi. Reductions due to these programs were determined using the mobile emission inventory model MOBILE 5.0a and relevant vehicle miles traveled (VMT) data. As a result of these permanent and enforceable reductions, VOC emissions decreased by 0.24 tons/day (1988–1990) and by 0.48 tons/day (1988–1993) in Greenbrier County. Emissions of NO_x were reduced by 0.10 tons/day and 0.19 tons/day during the same periods respectively in this area. The State of West Virginia's maintenance plan requires the continuation of the federal RVP program. The State demonstrated that point source VOC emissions were not artificially low due to local economic downturn during the period in which Greenbrier County air quality came into attainment. Reductions due to decreases in production levels or from other unenforceable scenarios such as voluntary reductions were not included in the determination of the emission reductions.

EPA finds that the combination of measures contained in the SIP and federal measures have resulted in permanent and enforceable reductions in ozone precursors that have allowed Greenbrier County to attain the NAAQS, and therefore, that the redesignation criterion of section 107(d)(3)(E)(iii) has been met.

5. Fully Approved Maintenance Plan Under Section 175A

EPA is approving the West Virginia maintenance plan for the Huntington, West Virginia area because EPA finds that West Virginia's submittal meets the requirements of section 175A of the Act. The Greenbrier County, West Virginia area will have a fully approved maintenance plan in accordance with section 175A of the Act. Section 175A of the Act 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 area is redesignated. 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.

5.A. Emissions Inventory—Base Year Inventory

On December 22, 1992, the State of West Virginia submitted comprehensive inventories of VOC, CO and NO_x emissions from area, stationary, and mobile sources for 1990. This inventory was used as the basis for calculations to demonstrate maintenance. West Virginia projected their 1990 inventory to 1993 in order to have a base year inventory corresponding to 1993 which was selected as the attainment base year. The 1993 VOC, NO_x, and CO inventory is considered representative of attainment conditions because no violations occurred in 1993, and it reflects the typical inventory for the most recent, as of September 1994, three-year period demonstrating attainment of the ozone NAAQS standard in Greenbrier County.

West Virginia's submittal contains the detailed inventory data and summaries by source category. West Virginia's submittal also contains information related to how it comported with EPA's guidance, which model and emission factors were used (note MOBILE 5.0a was used), how VMT data was generated, what RVP was considered in the base year, and other technical information verifying the validity of the Greenbrier County West Virginia emission inventory. A summary of the base year and projected maintenance year inventories are shown in the following tables in section 5.B.

5.B. Demonstration of Maintenance-Projected Inventories

Below, totals for VOC and NO_x emissions were projected from the 1990 base year out to 2005. These projected inventories were prepared in accordance with EPA guidance. Refer to EPA's TSD for more in-depth details regarding the projected inventory for the nonattainment areas.

GREENBRIER COUNTY—VOC PROJECTION INVENTORY SUMMARY (TONS PER DAY)

	1990 base year	1993 attain base	1996 proj.	1999 proj.	2002 proj.	2005
Point	0.04	0.04	0.05	0.05	0.05	0.05
Area	3.41	3.48	3.59	3.71	3.84	3.99
Mobile	3.83	3.36	3.26	3.22	3.21	3.29
Total	7.28	6.88	6.90	6.98	7.10	7.33

GREENBRIER COUNTY—NO_x PROJECTION INVENTORY SUMMARY (TONS PER DAY)

	1990 base year	1993 attain base	1996 proj.	1999 proj.	2002 proj.	2005 proj.
Point	0.14	0.15	0.16	0.16	0.17	0.17
Area	0.59	0.59	0.59	0.59	0.59	0.59
Mobile	5.00	4.82	4.71	4.62	4.57	4.68
Total	5.73	5.56	5.46	5.37	5.33	5.44

As indicated in the previous tables, a decrease in NO_x emissions is projected in the Greenbrier County nonattainment area throughout the maintenance period. A slight increase in VOC emissions is projected for the Greenbrier County nonattainment area. However, this projected emissions increase of 0.45 tons/day from 1993 to 2005 (of 0.05 tons/day from 1990 to 2005) is not expected to affect maintenance of the ozone NAAQS in this rural area. These projections do not consider the effect of future federal measures that are under a court-ordered promulgation deadline. Such measures include, but are not limited to, those for heavy duty diesel engines (see 59 FR 31306, June 17, 1994), small spark-ignition gasoline engines (see 59 FR 25399, May 16, 1994) and marine engines (see 59 FR 55930, November 9, 1994). These measures are expected to keep the Greenbrier County VOC emissions under the 1990 base year level.

There were no measured exceedances of the ozone NAAQS in 1990. As discussed earlier, Greenbrier County has continued to monitor attainment of the ozone NAAQS through 1994. EPA believes that these emissions projections demonstrate that the nonattainment area will continue to maintain the ozone NAAQS.

EPA does not believe that photochemical modelling would be useful in the case of Greenbrier County for assessing the effects of the projected VOC emissions increase. The natural, biogenic emissions in the Greenbrier County VOC inventory exceed 86 tons per day in 1990 and are projected to remain the same throughout the maintenance period. The increases in the total (biogenic plus anthropogenic)

VOC inventory to be modeled are too small.

5.C. Verification of Continued Attainment

Continued attainment of the ozone NAAQS in Greenbrier County depends, in part, on the State of West Virginia's efforts toward tracking indicators of continued attainment during the maintenance period. The State of West Virginia will track the status and effectiveness of the maintenance plan by periodically updating the emissions inventory every three years. West Virginia has committed to perform this tracking on a triennial basis in order to enable the State of West Virginia to implement the contingency measures of its maintenance plan as expeditiously as possible.

The State of West Virginia update will indicate new source growth, as indicated by annual emission statements. The State of West Virginia will continue to monitor ambient ozone levels by operating its ambient ozone air quality monitoring network in accordance with 40 CFR part 58.

5.D. Contingency Plan

The level of VOC and NO_x emissions in Greenbrier County will largely determine its ability to stay in compliance with the ozone NAAQS. Despite the State of West Virginia's best efforts to demonstrate continued compliance with the NAAQS, Greenbrier County may exceed or violate the NAAQS. Therefore, West Virginia has provided contingency measures with a schedule for implementation in the event of future ozone air quality problems. In the event that exceedances of the ozone NAAQS are measured such that nonattainment is indicated at the monitor in Greenbrier

County, or in the event that periodic emission inventory updates or major permitting activity reveals that excessive or unanticipated growth in ozone precursor emissions has occurred or will occur, West Virginia will accordingly select and adopt additional measures including one or more of the following to assure continued attainment:

1. Application of VOC/NO_x reasonably available control technology (RACT) requirements or similar emission limitations on stationary sources,

2. A revision to new source permitting requirements requiring more stringent emissions control technology and/or emission offsets.

One or more of these regulatory revisions would be selected and a draft regulation(s) developed by the West Virginia Division of Environmental Protection (WVDEP) for adoption as an emergency rule(s) within three (3) months after verification of a monitored ozone standard violation. WVDEP's adopted emergency rule(s) for the selected control measure(s) will be implemented within six (6) months after adoption and will be filed as legislative rule(s) for permanent authorization by the legislature as required under West Virginia law.

5.E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the State of West Virginia has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

EPA has determined that the maintenance plan adopted by the State of West Virginia and submitted to EPA

on September 9, 1994 meets the requirements of section 175A of the Act. Therefore, EPA is approving the maintenance plan.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective September 18, 1995 unless by September 5, 1995, adverse comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on September 18, 1995.

Final Action

EPA is approving the ozone maintenance plan for Greenbrier County in West Virginia submitted on September 9, 1994 because it meets the requirements of section 175A. EPA is approving the 1990 base year ozone inventory for Greenbrier County. In addition, the Agency is redesignating the Greenbrier County area to ozone attainment because the Agency has determined that the provisions of section 107(d)(3)(E) of the Act for redesignation have been met.

The Greenbrier County nonattainment area is subject to the Act's requirements for marginal ozone nonattainment areas until and unless it is redesignated to attainment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for 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 Act 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. SIP approvals under section 110 and subchapter I, part D of the clean Air Act 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, the Administrator certifies 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (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, 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 175A 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. 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.

The OMB has exempted this regulatory action from the requirements of section 6 of Executive Order 12866.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve West Virginia's redesignation request, base year ozone inventory, and maintenance plan for the Greenbrier County ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirement.

Dated: July 14, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

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 XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(36) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(36) The ten year ozone maintenance plan including emission projections and contingency measures for Greenbrier County, West Virginia effective on September 1, 1994 and submitted by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of September 9, 1994 from the West Virginia Division of Environmental Quality transmitting the ozone maintenance plan for Greenbrier County.

(B) The ten year ozone maintenance plan including emission projections and contingency measures for Greenbrier County, West Virginia effective on September 1, 1994.

(ii) Additional Material.

(A) Remainder of September 9, 1994 State submittal pertaining to the maintenance plan referenced in paragraph (c)(36)(i) of this section.

(B) [Reserved]

3. Section 52.2531 is added to read as follows:

§ 52.2531 1990 base year emission inventory.

EPA approves as a revision to the West Virginia State Implementation Plan the 1990 base year emission inventories for the Greenbrier county ozone nonattainment area submitted by the Secretary, West Virginia Department of Commerce, Labor & Environmental Resources on December 22, 1992. These submittals consist of the 1990 base year point, area, non-road mobile, biogenic and on-road mobile source emission inventories in Greenbrier County for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_x).

PART 81—[AMENDED]

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

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

Subpart C—Section 107 Attainment Status Designations

4. In § 81.349 the ozone table is amended by revising the entry for Greenbrier County to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA.—OZONE

Designated area	Designation			Classification	
	Date ¹	Type	Date	Type	
Greenbrier Area:	*	*	*	*	*
Greenbrier County	September 18, 1995	Unclassifiable/Attainment
	*	*	*	*	*

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

[FR Doc. 95-19274 Filed 8-3-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[AD-FRL-5270-3]

Clean Air Act Final Interim Approval of the Operating Permits Program for the Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating interim approval of the title V operating permits program submitted by the Sacramento Metropolitan Air Quality Management District (District) for the purpose of complying with federal requirements that mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. In addition, today's action grants final approval to the District's mechanism for receiving delegation of section 112 standards as promulgated.

EFFECTIVE DATE: September 5, 1995.

ADDRESSES: Copies of the District's submittals and other supporting information used in developing the final approvals are available for inspection during normal business hours at the

following location: U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ed Pike (telephone 415/744-1248), Mail Code A-5-2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70, require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program.

On June 6, 1995, EPA proposed interim approval of the operating permits program for the Sacramento Metropolitan Air Quality Management District. See 60 FR 29809. The **Federal Register** document also proposed approval of the District's interim mechanism for implementing section 112(g) and program for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. In this notice, EPA is promulgating interim approval of the District's operating permits program and approving the section 112(g) and section 112(l) mechanisms.

II. Final Action and Implications

A. Title V Operating Permits Program

The EPA is promulgating interim approval of Sacramento's title V operating permits program as submitted on August 1, 1994. The District's program substantially, but not fully, meets the requirements of part 70 and meets the interim approval requirements under 40 CFR 70.4. The program revisions necessary for full approval are unchanged from the proposal. See 60 FR 29809 (June 6, 1995).

The scope of this approval of the District's part 70 program applies to all part 70 sources (as defined in the approved program) within Sacramento County except any sources of air