profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA 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 CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 1996. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 2, 1995.

William Rice,

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 AA—[Missouri]

2. Section 52.1320 is amended by adding paragraph (c)(91) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(91) This revision provides for data which have been collected under the enhanced monitoring and operating permit programs to be used for compliance certifications and enforcement actions.

(i) Incorporation by reference.

(A) 10 CSR 10–6.280 Compliance Monitoring Usage, effective December 30, 1994.

[FR Doc. 96–2379 Filed 2–5–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[RI–16–01–6673a; A–1–FRL–5337–6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island: Revisions to the Requirements and Procedures for NSR/PSD Permit Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the State implementation plan (SIP) revisions submitted by the State of Rhode Island for the purpose of meeting requirements of the Clean Air Act Amendments of 1990 (CAAA) with regard to New Source Review (NSR) in areas that have not attained the National Ambient Air Quality Standards (NAAQS). In addition, EPA is approving revisions to Rhode Island's SIP pertaining to Prevention of Significant Deterioration (PSD) program in attainment areas and other miscellaneous requirements. In general, these revisions make the Rhode Island PSD program more consistent with the current Federal requirements. The intended effect of this action is to approve the State's request to amend its SIP to satisfy the Federal requirements. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective April 8, 1996, unless notice is received within 30 days 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 Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 565–3262.

SUPPLEMENTARY INFORMATION: On March 11, 1993, the Rhode Island Department of Environmental Management (DEM) submitted revisions to its SIP pertaining to the requirements and procedures for the processing and approval of permit applications for new or modified stationary sources of air pollution. The revisions consist of modifications to Rhode Island's Air Pollution Control Regulation #9, ''Air Pollution Control Permits,'' and affect the following elements : (1) major source permitting in nonattainment areas, including ozone nonattainment areas; (2) PSD program; (3) minor source construction permitting; and (4) general administrative requirements of the permitting program.

This notice is divided into five sections for clarity. Section I discusses the procedural background concerning Rhode Island's SIP submittal. Section II discusses the revisions to the general requirements for nonattainment NSR. Section III discusses the revisions to the specific requirements for NSR in the ozone nonattainment areas. Section IV discusses the revisions to the general requirements for the PSD program, minor source permitting requirements and general administrative requirements of the permitting program. Section V discusses the EPA's final action.

EPA is publishing this action 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 April 8, 1996 unless, by March 7, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously 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. The EPA will not institute a second comment period on this action.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 8, 1996.

Section I

Procedural Background

Section 110(k) of the CAA sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66, April 16, 1992). The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action [see § 110(k)(1) and 57 FR 13565, April 16, 1992]. The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) if a completeness determination is not made by EPA within 6 months after receipt of the submission.

The State of Rhode Island held a public hearing on October 19, 1992, to entertain public comment on the new source review implementation plan. Following the public hearing, the plan was filed with the Secretary of State on March 4, 1993, and became effective on March 24, 1993. The plan was submitted to EPA on March 11, 1993 as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria referenced above. The submittal was found to be complete on May 6, 1993 and a letter dated May 10, 1993 was forwarded to Steve Majkut, Acting Chief, Division of Air Resources, DEM, indicating the completeness of the submittal and the next steps to be taken in the review process.

Section II

General Requirements for Nonattainment NSR

A. Background

The air quality planning requirements for nonattainment new source review are set out in part D of subchapter I of the Act. The EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment area NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in today's proposal and the supporting rationale.

B. Summary of Rhode Island's Regulation

The general nonattainment NSR requirements are found in §§ 172 and 173 of part D of subchapter I of the Act and must be met by all nonattainment areas. The following paragraphs reference the nonattainment NSR requirements that were required to be submitted to EPA by November 15, 1992 and explain how Rhode Island's rules meet those requirements. Some of these provisions were already contained in Rhode Island's existing SIP while others are being approved today.

a. Rhode Island regulation 9.4.3(a) establishes provisions in accordance with § 173(a)(1)(A) of the CAA to assure that calculations of emissions offsets are based on the same emissions baseline used in the demonstration of Reasonable Further Progress (RFP).

b. Rhode Island regulation 9.4.2(d)(5) establishes provisions in accordance with § 173(c)(1) of the CAA to allow offsets to be obtained in another nonattainment area if: i) the area has an equal or higher nonattainment classification and ii) emissions from the other nonattainment area contribute to a NAAQS violation in the area in which the source would construct.

c. Rhode Island regulation 9.4.2(d)(2–3) establishes provisions in accordance with § 173(c)(1) of the CAA that any emissions offsets obtained in conjunction with the issuance of a permit to a new or modified source must be in effect and enforceable by the time the new or modified source commences operation.

d. Rhode Island regulation 9.4.2(c) establishes provisions in accordance with § 173(c)(1) of the CAA to assure that emissions increases from new or modified sources are offset by real reductions in actual emissions.

e. Rhode Island regulation 9.4.3(a) establishes provisions in accordance with § 173(c)(2) of the CAA to prevent emissions reductions otherwise required by the Act from being credited for purposes of satisfying part D offset requirements.

f. The 1990 CAAA modified the Act's provisions on growth allowances in nonattainment areas by (1) Eliminating existing growth allowances in any nonattainment area that received a notice prior or subsequent to the Amendments that the SIP was substantially inadequate, and (2) restricting growth allowances to only those portions of nonattainment areas formally targeted as special zones for economic growth. Section 173(b) and 173(a)(1)(B) of the CAA. Consistent with these changes, Rhode Island has removed from its SIP NSR regulations the growth allowance provisions. There are no zones currently in Rhode Island that are targeted for economic development.

g. Rhode Island regulation 9.4.2(e) establishes provisions in accordance with § 173(a)(5) of the CAA that, as a prerequisite to issuing any part D permit, require an analysis of alternative sites, sizes, production processes, and environmental control techniques for proposed sources that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

h. Rhode Island and the EPA-New England office have established a mechanism through the Regional grants program to supply information from nonattainment new source review permits to EPA's RACT/BACT/LAER clearinghouse in accordance with § 173(d) of the CAA.

i. Rhode Island regulation 9.1.39 establishes, in accordance with §§ 302(z) and 111(a)(3) of the CAA, a definition of ''stationary source'' that includes certain internal combustion engines other than the newly defined category of ''nonroad engines.''

j. Rhode Island regulation 9.4.2(b) establishes provisions in accordance

[1] Section 172(c)(7) of the Act provides that plan provisions for nonattainment areas shall meet the applicable provisions of § 110(a)(2).

with § 173(a)(3) of the CAA that require owners or operators of each proposed new or modified major stationary source to demonstrate, as a condition of permit issuance, that all other major stationary sources under the same ownership in the State are in compliance with the CAA.

Section III

General Requirements for Ozone Nonattainment NSR

A. Background

The general nonattainment NSR requirements are found in §§ 172 and 173 of Part D of subchapter I of the Act and must be met by all nonattainment areas. The requirements for ozone that supplement or supersede these requirements are found in subpart 2 of part D. In addition to requirements for ozone nonattainment areas, subpart 2 includes § 182(f), which states that requirements for major stationary sources of VOC shall apply to major stationary sources of oxides of nitrogen (NO_X) unless the Administrator makes certain determinations related to the benefits or contribution of NO_X control to air quality, ozone attainment, or ozone air quality. States were required under section 182(a)(2)(C) to adopt new NSR rules for ozone nonattainment areas by November 15, 1992.

B. Summary of Rhode Islands Submittal

Pursuant to § 172(c)(5) of the CAA, SIPs must require permits for the construction and operation of new or modified major stationary sources. The federal statutory permit requirements for ozone nonattainment areas are generally contained in revised § 173, and in subpart 2 of subchapter I, part D of the CAA. These are the minimum requirements that States must include in an approvable implementation plan. For all classifications of ozone nonattainment areas and for ozone transport regions (OTRs), States must adopt the appropriate major source thresholds and offset ratios, and must adopt provisions to ensure that any new or modified major stationary source of NO_X satisfies the requirements applicable to any major source of VOC, unless a special NO_X exemption is granted by the Administrator under the provision of § 182(f). For serious and severe ozone nonattainment areas, State plans must also implement §§ 182(c) (6), (7) and (8) with regard to modifications. The entire state of Rhode Island is currently classified as a serious ozone nonattainment area.

The following paragraphs reference the ozone nonattainment and OTR NSR requirements that Rhode Island was required to submit to EPA by November 15, 1992 and how Rhode Island has met those requirements.

a. Rhode Island Regulations 9.4.1(b)(1) and 9.4.2 establish, in accordance with §§ 182(c) and 182(f) of the CAA, major source thresholds for serious areas of 50 tons per year (tpy) for VOC and for NO_X.

b. Rhode Island Regulation 9.4.2(d)(4) establishes, in accordance with §§ 183(c)(10) and 182(f) of the CAA, an offset ratio of 1.2 to 1 for major sources or major modifications of VOC or NO_X in serious areas.

c. In combination, Rhode Island Regulations 9.1.25 and 9.1.37 establish provisions that are consistent with the requirements of § 182(c)(6) of the CAA, the De Minimis Ruling.

d. Rhode Island Regulation 9.4.2 (a)(3) and (a)(4) establish provisions which are at least as stringent as the Federal special rules for modifications in § 182(c) (7) and (8) of the CAA.

Section IV

Revisions to PSD Program, Minor Source Permitting, and General Requirements

A. Background

Requirements for attainment NSR are set out in part C of subchapter I of the CAA and in 40 CFR 51.166 and must be met by all State PSD program SIPs. Minor source construction permitting requirements are contained in section 110(a)(2)(c) and 40 CFR 51.100–165. Rhode Island has revised various provisions in its PSD program and in its construction permitting regulation.

B. Summary of Rhode Island's Submittal

In general, the revisions clarified the current procedures used by the DEM or implemented procedures consistent with current federal rules. A brief description of the revisions is as follows:

—The definition of significant net emissions increase for NO_X in NO_X attainment areas has been changed from 40 to 25 tpy.
—The threshold level for municipal incinerators in the definition of major source has been lowered from 250 to 50 tons of charged refuse per day. Municipal incinerators below the threshold level do not include fugitive emissions in determining whether the source is a major source.
—The definition of ''significant'' has been changed to include the significant net emission threshold levels for municipal waste combustor pollutants.
—The definitions for nonroad engines and nonroad vehicles have been added to the regulation.
—The limits to the percentage of increment consumed by a source or modification now applies only to major sources or major modifications.
—Sources are required to obtain a major source permit or a minor source permit, whichever applies.
—Certain air pollution control equipment have been exempted from minor source permitting requirements.
—The requirements for public participation in the review of major source permit applications have been added to the body of the regulation.
—The requirements for operating permits have been removed from the regulation.
—The time limit for a source to commence construct after issuance of a permit has been increased from 1 year to 18 months.
—The definition for ''State recovery facility'' has been removed from the regulation.

For further details concerning the revisions to Rhode Island's Air Pollution #9 and EPA's evaluation, please refer to the memorandum entitled ''Technical Support Document—Rhode Island New Source Review Revisions.''

Section V

Final Action

EPA is approving the revisions to the Rhode Island Air Pollution Control Regulation No. 9, ''Air Pollution Control Permits,'' except for Chapter 9.13, Application for an Air Toxics Operating Permit; Chapter 9.14, Administrative Action: Air Toxics Operating Permits; Chapter 9.15, Transfer of an Air Toxics Operating Permit; and Appendix A, Toxics Air Pollutants, Minimum Quantities. This regulation was effective in the State of Rhode Island on March 24, 1993. These revisions meet the nonattainment area NSR provisions of Part D of the CAA as well as the requirements of the General Preamble and other miscellaneous 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.

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 110 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.

The OMB has exempted this action from review under Executive Order 12866.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

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 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 April 8, 1996. 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

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: September 11, 1995.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of 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 OO—Rhode Island

2. Section 52.2070 is amended by adding paragraph (c)(41) to read as follows:

§ 52.2070 Identification of plan.

* * * * * *

(c) * * *

(41) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on March 11, 1993.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management dated March 5, 1993 submitting a revision to the Rhode Island State Implementation Plan.

(B) Rhode Island's Air Pollution Control Regulation No. 9 entitled, ''Air Pollution Control Permits,'' except for Chapter 9.13, Application for an Air Toxics Operating Permit; Chapter 9.14, Administrative Action: Air Toxics Operating Permits; and Chapter 9.15, Transfer of an Air Toxics Operating Permit; and Appendix A, Toxic Air Pollutants, Minimum Quantities. This regulation was effective in the State of Rhode Island on March 24, 1993.

(ii) Additional materials.

(A) A fact sheet on the proposed amendments to Regulation No. 9 entitled, ''Approval to Construct, Install, Modify or Operate''.

(B) Nonregulatory portions of the State submittal.

3. In § 52.2081 Table 52.2081 is amended by adding new entries to existing state citations for Chapter No. 9, to read as follows:

§ 52.208 EPA-approved EPA Rhode Island State regulations.

TABLE 52.2081.—EPA-Approved Rules and Regulations

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/Unapproved sections
*	*	*	*	*	*	*
No. 9	Air Pollution Control Permits.	March 4, 1993	February 6, 1996 ..	61 FR 4353	(c)(41)	Addition of NSR and other CAAA requirements under Amended Regulation No. 9 except for Chapters 9.13, 9.14, 9.15, and Appendix A.
*	*	*	*	*	*	*

[FR Doc. 96–2226 Filed 2–5–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 81

[FRL–5412–5]

Designation of Areas for Air Quality Planning Purposes; South Dakota; Approval of Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is approving an October 12, 1995 request from the designee of the Governor of South Dakota to redesignate the ''Rest of State'' area designated under section 107 of the Clean Air Act (Act), which includes the entire State of South Dakota except the Rapid City area, from unclassifiable to attainment for PM–10. EPA is approving the redesignation request because the State has adequately demonstrated that the ''Rest of State'' is in attainment of the PM–10 National Ambient Air Quality Standards (NAAQS) and that it will continue to maintain the PM–10 NAAQS. The requirements that will apply in the ''Rest of State'' area will not change as a result of this action because, for the purposes of the requirements of the Act, unclassifiable areas and attainment areas are treated the same.

DATES: This action is effective on April 8, 1996 unless adverse or critical comments are received by March 7, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the State's submittal and other relevant information are available for inspection during normal business hours at the following locations: Air Program, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and South Dakota Department of Environment and Natural Resources, Division of Environmental Regulation, Joe Foss Building, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART–AP, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 312–6445.

SUPPLEMENTARY INFORMATION:

I. Background

The State of South Dakota has two areas designated under section 107 of the Act for PM–10 in 40 CFR 81.342, both of which are designated as unclassifiable: the ''Rapid City Area'' and the ''Rest of State'' (see 60 FR 55800, November 3, 1995, for the initial promulgation of PM–10 table in 40 CFR 81.342). EPA designated these areas as unclassifiable, rather than attainment, to be consistent with section 107(d)(4)(B) of the Act, which states that any area not initially designated as nonattainment for PM–10 shall be designated unclassifiable. Both ''unclassifiable'' and ''attainment'' areas have the same status relative to the applicable requirements of the Act.

However, States do have the option of requesting redesignation of such areas from unclassifiable to attaintment for PM–10, if certain requirements are met. In a September 13, 1995 letter to the State of South Dakota, EPA stated that the following requirements needed to be met in order for EPA to redesignate an area from unclassifiable to attainment for PM–10:

A. EPA must receive a request from the Governor (or his/her designee) to redesignate an area from unclassifiable to attainment for PM–10 pursuant to section 107(d)(3)(D) of the Act;

B. The State must have a maintenance plan pursuant to section 175A of the Act which, for redesignation from unclassifiable to attainment, would include the existing State regulations approved in the SIP that control emissions of PM–10 in the area; and

C. Verification of three consecutive years of clean air quality PM–10 data for the area.

With such a submittal showing that the area is in attainment of the PM–10 NAAQS and that the area will maintain attainment based on the PM–10 controls in the SIP, EPA can redesignate an area from unclassifiable to attainment for PM–10.

II. Evaluation of State's Submittal

On October 12, 1995, the designee of the Governor of South Dakota submitted a request pursuant to section 107(d)(3)(D) of the Act for the ''Rest of State'' area (which includes the entire State except the Rapid City area) to be redesignated from unclassifiable to attainment for PM–10. The State's letter indicated that the air quality monitoring data for the ''Rest of State,'' all of which has been entered into EPA's aerometric information retrieval system (AIRS) database, show levels less than the PM–10 NAAQS. Further, the State indicated that the South Dakota air monitoring network for the ''Rest of State'' is reviewed annually to ensure that the monitors are measuring maximum PM–10 concentrations, and that the most recent network review was sent to EPA in August of 1995. Last, the State indicated that Article 74:36 of the Administrative Rules of South Dakota (ARSD), which was most recently approved by EPA as part of the SIP on September 6, 1995 (60 FR 46222), will ensure that attainment of the PM–10 NAAQS will be maintained in the ''Rest of State'' area.

A review of the data entered by the State into the AIRS database found that the ''Rest of State'' area is in attainment of the PM–10 NAAQS. The State currently has three PM–10 monitoring stations in the ''Rest of State'' area: two in Sioux Falls and one in Brookings. Based on the information included in the most recent annual network review (which was approved by EPA on August 18, 1995), EPA is confident that these monitors are in the areas of expected maximum PM–10 concentrations in the ''Rest of State'' area. A review of the data indicates there have been no violations of the PM–10 24-hour or