

determination. Therefore, the remedy of any individual who is the subject of a passport denial, revocation, restriction or limitation due to arrearages of child support in an amount exceeding \$5,000.000 lies only with the State agency, and no administrative review by the Department of State under the provisions in §§ 51.81 through 51.89 of Title 22 of the Code of Federal Regulations will be performed. Section 51.80 of Title 22 of the Code of Federal Regulations is amended to exempt this reason for passport denial from entitlement to a hearing.

These changes to the regulations are not expected to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). In addition, they will not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35. Nor do these rules have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12988. These rules are exempt from review under E.O. 12988 but have been reviewed and found to be consistent with the objectives.

For the reasons set forth in the preamble, part 51 to title 22 is amended as follows:

PART 51—PASSPORTS

1. The authority citation for part 51 is revised to read as follows:

Authority: 22 U.S.C. 211a, as amended; 8 U.S.C. 1104(d); 22 U.S.C. 2651a, 3926; sec. 122(d)(3), Pub. L. 98-164, 97 Stat. 1017; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966-1970 Comp., p 570; Pub. L. 100-690; sec. 129, Pub. L. 102-138, 105 Stat. 661; sec. 503, Pub. L. 102-140, 105 Stat. 820; Title V, Pub. L. 103-317, 108 Stat. 1724; sec. 452(k) and sec. 454(31), Pub. L. 93-647, 42 U.S.C. 652, as amended by sec. 370, Pub. L. 104-193, 110 Stat. 2251-2252.

2. Section 51.70(a) is amended as follows:

a. Substitute “; or” for the period after paragraph (a)(7).

b. Add paragraph (a)(8) to read as follows:

§ 51.70 Denial of passports.

(a) * * *

(8) The applicant has been certified by the Secretary of Health and Human Services as notified by a State agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount exceeding \$5,000.00.

§ 51.80 [Revised]

3. Section 51.80 is revised to read as follows:

The provisions of §§ 51.81 through 51.89 shall not apply to any action of

the Secretary of State taken on an individual basis in denying, restricting, revoking or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport by reason of:

(a) Noncitizenship.

(b) Refusal under the provisions of § 51.70(a)(8),

(c) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or

(d) Refusal to grant a discretionary exception from geographical limitations of general applicability. The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under § 51.70, § 51.71 or § 51.72.

Dated: November 6, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 97-30762 Filed 11-24-97; 8:45 am]

BILLING CODE 4710-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TN 86-1-9802a; TN 127-1-9803a; FRL-5923-2]

Designation of Areas for Air Quality Planning Purposes; Tennessee: Redesignation of the Polk County and New Johnsonville Sulfur Dioxide Nonattainment Areas to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving maintenance plans and requests for redesignation of the Polk County area and portions of Benton and Humphreys Counties, Tennessee, surrounding TVA's Johnsonville plant (New Johnsonville area) from nonattainment to attainment for the sulfur dioxide (SO₂) National Ambient Air Quality Standards (NAAQS), pursuant to requests submitted on January 6, 1988, July 12, 1990, December 17, 1993, and April 17, 1995, by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC).

DATES: This final rule is effective January 26, 1998 unless notice is received by December 26, 1997 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to:

For the Polk County area: Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303.

For the New Johnsonville area: Steven M. Scofield, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303.

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 Planning Branch, 61 Forsyth Street, Atlanta, Georgia 30303.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1531.

FOR FURTHER INFORMATION CONTACT:

For the Polk County area: Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303. The telephone number is 404/562-9036.

For the New Johnsonville area: Steven M. Scofield, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303. The telephone number is 404/562-9034.

SUPPLEMENTARY INFORMATION:

In a **Federal Register** document published March 3, 1978, (43 FR 8962) the Polk County and New Johnsonville areas were designated nonattainment for SO₂. On July 12, 1990, the State of Tennessee, through the TDEC, submitted a request for redesignation of the Polk County SO₂ nonattainment area to attainment. This request did not contain a maintenance plan, including contingency measures, as required in section 107(d)(3)(E) of the Clean Air Act (CAA). Subsequently, on April 17, 1995,

the State submitted a maintenance plan that completed the redesignation request. The State of Tennessee has met all of the CAA requirements for redesignation pursuant to Section 107(d)(3)(E).

On January 6, 1988, the State of Tennessee, through the TDEC, submitted a request for redesignation of the New Johnsonville SO₂ nonattainment area to attainment. The submittal was not approvable due to stack height issues that were affected by a January 22, 1988, court decision, which prohibited EPA from exempting stack height increases from demonstration requirements. Since the 1990 amendments to the CAA, it has been EPA's policy to approve redesignation requests affected by that court decision. However, this request did not contain a maintenance plan, including contingency measures, as required in section 107(d)(3)(E) of the CAA. Subsequently, on December 17, 1993, the State submitted a maintenance plan that completed the redesignation request. The State of Tennessee has met all of the CAA requirements for redesignation pursuant to Section 107(d)(3)(E).

Section 107(d)(3)(E)(i). The Administrator has determined that the area has attained the NAAQS.

Tennessee submitted air quality data demonstrating attainment with both the primary and secondary SO₂ NAAQS for the years 1988 and 1989 in the Polk County area and 1981 through 1993 in the New Johnsonville area. As required by the EPA for SO₂ redesignations, a nonattainment area must demonstrate attainment by showing no more than one exceedance annually for two complete, consecutive calendar years and must continue in attainment status until the final notice approving such redesignation is effective. During that period there were no exceedances in the Polk County area and one exceedance of each of the primary and secondary NAAQS during 1986 in the New Johnsonville area, and hence, no violations of the SO₂ NAAQS. Both areas have continued to monitor attainment of the SO₂ NAAQS to date.

Section 107(d)(3)(E)(ii). The Administrator has fully approved the applicable implementation plan for the area under Section 110(k).

The Tennessee SO₂ State Implementation Plan (SIP) is fully approved and meets all requirements under section 110(k) which are applicable to the Polk County and New Johnsonville areas. Additionally, Reasonably Available Control Technology (RACT) emission limits for sources located in the Polk County area

are specified in Rule 1200-3-19-.19 of the Tennessee Air Pollution Control regulations and RACT limits for the New Johnsonville area are specified in Rule 1200-3-19-.14 of the Tennessee Air Pollution Control regulations. TDEC Rule 1200-3-19-.19 became federally enforceable after EPA approval and publication in the **Federal Register** on February 6, 1980 (45 FR 8004) and May 27, 1982 (47 FR 23160) and TDEC Rule 1200-3-19-.14 became federally enforceable after EPA approval and publication in the **Federal Register** on April 7, 1993 (58 FR 18011).

Section 107(d)(3)(E)(iii). The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions.

The BIT Manufacturing, Inc. facility is the only significant source of SO₂ emissions located in or impacting the Polk County area. The TDEC submits that the present SIP is adequate and the RACT emission limitations contained in TDEC Rule 1200-3-19-.19 have resulted in permanent and enforceable reductions in emissions. TDEC Rule 1200-3-19-.19 became federally enforceable after EPA approval and publication in the **Federal Register** on February 6, 1980 (45 FR 8004), and May 27, 1982 (47 FR 23160).

For the New Johnsonville area, the State has demonstrated that the present SIP is adequate and the RACT emission limitations contained in TDEC Rule 1200-3-19-.14 have resulted in permanent and enforceable reductions in emissions. TDEC Rule 1200-3-19-.14 became federally enforceable after EPA approval and publication in the **Federal Register** on April 7, 1993 (58 FR 18011).

Section 107(d)(3)(E)(iv). The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A.

Section 175A of Part D of the CAA requires maintenance and contingency plans for nonattainment areas before redesignation can occur. As required by section 175A the TDEC submitted to the EPA air dispersion modeling which demonstrated maintenance of the SO₂ NAAQS. The TDEC used EPA approved models ISC2 and COMPLEX1 (VALLEY screening mode) as their dispersion models. Additionally, for both areas, the TDEC will evaluate any permissible SO₂ emissions increases from existing sources, or any permissible SO₂ emissions from any new source that

might locate in the area, with atmospheric dispersion modeling to ensure that compliance with the NAAQS for SO₂ is maintained. The maintenance plan is to be in effect for a ten year period after redesignation of the area. The State must also submit an additional plan, 8 years after redesignation of the area, for maintaining the NAAQS for 10 years after the expiration of the initial 10-year maintenance period. In the case of the Polk County area, attainment of both the primary and secondary NAAQS has been evident since 1988. The RACT standards in place have achieved the desired effect of a maintenance plan. Therefore, the maintenance plan for the Polk County area will also include continued implementation of the RACT standards specified in TDEC Rule 1200-3-19-.19. In the case of the New Johnsonville area, attainment of both the primary and secondary NAAQS has been evident since 1981. The RACT standards in place have achieved the desired effect of a maintenance plan. Therefore, the maintenance plan for the New Johnsonville area will also include continued implementation of the RACT standards specified in TDEC Rule 1200-3-19-.14.

Any violation of the NAAQS for SO₂ will trigger initiation of TDEC's contingency plan for the Polk County and New Johnsonville areas. TDEC regulations contained in Chapter 20 require companies to maintain logs for malfunctions and upsets. This includes production of records and log notes regarding operation of processes or fuel burning, control room data, and pollution control equipment data. In the event of exceedances of the NAAQS, a field visit within 30 days will be conducted by the TDEC and a field report shall be completed within 45 days concerning the findings and conclusions. The following three-fold approach shall be utilized based on the particular situation described below.

1. If current SIP emission limits are exceeded, then the TDEC will proceed with enforcement action according to the Tennessee EPA enforcement agreement. Corrective action measures will be required by the TDEC in a timely manner. The TDEC requires a form entitled APC-19, "Proposed Schedule for Corrective Action", to be returned which outlines specific measures and time frames for facilities to bring the violating source into compliance in a timely manner.

2. If no emission limits are exceeded and it is determined that the current SIP requirements are inadequate to maintain the NAAQS, within 60 days of issuance of the field report revised SIP permits

with more stringent emission limits will be formulated. A compliance schedule to achieve the revised emission limits will be incorporated in any new permits as part of the SIP.

3. If there is an exceedance of the SO₂ standard and no emission limit is violated and the TDEC has evidence that the ambient exceedance resulted from a permitted source or a non-permitted source due to an accidental release, the situation would be handled using one of the two following methods.

(1) If the source is permitted and is within the maintenance area, a plan of future action will be formulated within 90 days by the facility acceptable to the TDEC to either prevent and/or handle incidents of this nature.

(2) If the source is not permitted, the TDEC will contact the party and negotiate, if possible, a voluntary plan of action for the future.

Section 107(d)(3)(E)(v). The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

Tennessee has complied with all requirements for section 110 of the CAA and part D. The implementation plan meets the requirements of section 110 of the CAA and the RACT plan in place provides specific emission limits to minimize SO₂ emissions. Part D entitled *Plan Requirement for Nonattainment Area* lists general plans for nonattainment areas which include attainment dates, incorporating RACT, tracking reasonable further progress (RFP), compiling periodic inventories, adopting enforceable measures, and permitting new and modified sources in accordance with section 173 while not interfering with RFP. All of the above measures have been adopted by the TDEC and approved in the SIP. Therefore, all of the requirements for section 107(d)(3)(E) have been satisfied.

Final Action

In this action, EPA is approving the Polk County area SO₂ maintenance plan submitted on April 17, 1995, and the New Johnsonville area SO₂ maintenance plan submitted on December 17, 1993, because both meet the requirements of section 175A. In addition, the Agency is approving the request to redesignate the Polk County and New Johnsonville SO₂ areas to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation.

The SO₂ SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the SO₂ NAAQS. This final redesignation should not be interpreted as authorizing the State to

delete, alter, or rescind any of the SO₂ emission limitations and restrictions contained in the approved SO₂ SIP. Changes to SO₂ SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation [section 173(b) of the CAA] and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the CAA.

The 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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective January 26, 1998 unless, by December 26, 1997 adverse or critical comments are received, or the areas fail to continue in attainment status until the final notice approving such redesignation is effective.

If the EPA receives such comments or the areas fail to continue in attainment status until the final action approving such redesignation is effective, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will 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 January 26, 1998.

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.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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 Regional Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the

U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial 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 January 26, 1998. 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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 10, 1997.

A. Stanley Meiburg,
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 RR—Tennessee

2. Section 52.2220 is amended by adding paragraphs (c)(159) and (160) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(159) The maintenance plan and redesignation request for the Polk County area submitted by the Tennessee Department of Environment and Conservation on April 17, 1995, as part of the Tennessee SIP.

(i) Incorporation by reference. The following sections of the Tennessee Department of Environment and Conservation Board Order Number 95-24: VI. Maintenance and contingency plan adopted on April 12, 1995.

(ii) Other material. None.

(160) The maintenance plan and redesignation request for the New Johnsonville Area which includes that portion of Benton and that portion of

Humphreys Counties, Tennessee, surrounding TVA's Johnsonville plant submitted by the Tennessee Department of Environment and Conservation on December 17, 1993, as part of the Tennessee SIP.

(i) Incorporation by reference. The following sections of the Tennessee Department of Environment and Conservation Board Order Number 93-25: I. Maintenance Plan; and II. Contingency Plan adopted on December 15, 1993.

(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.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.343, the "Tennessee-SO₂" table is amended by revising the entries for "That portion of Benton County surrounding TVA's Johnsonville plant", "That portion of Humphreys County surrounding TVA's Johnsonville plant", and "Polk County" to read as follows:

§ 81.343 Tennessee

* * * * *

TENNESSEE—SO₂

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Benton County surrounding TVA's Johnsonville plant***	X
That portion of Humphreys County surrounding TVA's Johnsonville plant***	X
Polk County***	X

* * * * *

[FR Doc. 97-30952 Filed 11-24-97; 8:45 am]

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