To review support documents and data for our proposal, and to prepare for the seventh conference, you may obtain technical materials from several sources. You may get copies of some materials from the docket (see **ADDRESSES**). We have uploaded many materials, for example essential codes, preprocessors, utilities, test cases, and user's manuals for the new modeling systems, to our website (www.epa.gov/scram001; see 7th Conference).

Public Participation

The Seventh Conference on Air Quality Modeling will be open to the public; no admission fee is charged and there is no formal registration. The conference will begin the first morning with introductory remarks by the presiding EPA official. The conference will continue with prepared presentations on several key modeling systems: The development of an enhanced Gaussian dispersion model with boundary layer parameterization (AERMOD [1]); the development of the CALPUFF modeling system by Earth Tech, Inc. under the auspice of the Interagency Workgroup on Air Quality Modeling (IWAQM [2]); the development and testing of ISC–PRIME by the Electric Power Research Institute's building downwash program; and revisions to the Emissions and Dispersion Modeling System (EDMS) by the Federal Aviation Administration. There will also be presentations on several models for consideration as ''alternative models'' for case-by-case application.

The second morning, there will be critical reviews/discussions of the new modeling systems facilitated first by the American Meteorological Society's Committee on Meteorological Aspects of Air Pollution, and then by the Air & Waste Management Association's AB–3 Committee. We also plan to feature a special panel presentation on the next generation of air quality models that may be driven by output from four-dimensional prognostic models. This will be followed by statements from representatives of State and local air pollution control agencies and by appropriate Federal agencies. The conference will then be opened to statements and comments from the general public. As information develops, we will post an agenda for the conference on our website (www.epa.gov/scram001; see 7th Conference).

For the new models and modeling techniques described on June 28th, EPA will be asking the public to address the following questions:

- Has the scientific merit of the models presented been established?
- Are the models' accuracy sufficiently documented?
- Are the proposed regulatory uses of individual models for specific applications appropriate and reasonable?
- Do significant implementation issues remain or is additional guidance needed?
- Are there serious resource constraints imposed by modeling systems presented?
- What additional analyses or information are needed?

Those wishing to speak at the conference, whether to volunteer a presentation on a special topic or to offer general comment on any of the modeling techniques scheduled for presentation, should contact us at the address given in the **FOR FURTHER INFORMATION CONTACT** section no later than June 15, 2000. Such persons should identify the organization (if any) on whose behalf they are speaking and the length of presentation. If a presentation of general comments is projected to be longer than 10 minutes, the presenter should also state why a longer period is needed. Persons failing to submit a written notice but desiring to speak at the conference should notify the presiding officer immediately before the conference and they will be scheduled on a time-available basis.

The conference will be conducted informally and chaired by an EPA official. There will be no sworn testimony or cross examination. A verbatim transcript of the conference proceedings will be produced and placed in the docket. Speakers should bring extra copies of their presentation for inclusion in the docket and for the convenience of the reporter. Speakers will be permitted to enter into the record any additional written comments that are not presented orally. Additional written statements or comments should be sent to the OAR Regulatory Docket (see **ADDRESSES** section). A transcript of the proceedings and a copy of all written comments will be maintained in Docket A–99–05 which will remain open until August 21, 2000 for the purpose of receiving additional comments.

[1] AMS/EPA Regulatory MODel; AERMOD is being developed by AERMIC: AMS/EPA Regulatory Model Improvement Committee.

[2] IWAQM was formed in 1991 to provide a focus for development of technically sound regional air quality models for regulatory assessments of pollutant source impacts on federal Class I areas. IWAQM is an interagency collaboration that includes efforts by EPA, U.S. Forest Service, National Park Service, and Fish and Wildlife Service.

Dated: May 9, 2000.

Bob Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 00–12390 Filed 5–18–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AZ–098–0025 FRL–6703–1]

Determination of Attainment of the 1-Hour Ozone Standard for the Phoenix Metropolitan Area, Arizona and Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine that the Phoenix metropolitan serious ozone nonattainment area has attained the 1-hour ozone air quality standard deadline required by the Clean Air Act (CAA), November 15, 1999. Based on this proposal, we also propose to determine that the CAA's requirements for reasonable further progress and attainment demonstrations and for contingency measures are not applicable to the area for so long as the Phoenix metropolitan area continues to attain the 1-hour ozone standard.

DATES: Comments on this proposal must be received in writing by June 19, 2000. Comments should be addressed to the contact listed below.

ADDRESSES: Copies of our draft technical support document for this rulemaking and our policies governing attainment findings and the applicability of CAA requirements in areas attaining the 1-hour ozone standard are contained in the docket for this rulemaking. The docket is available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1248.

Arizona Department of Environmental Quality, Office of Outreach and Information, First Floor, 3033 N. Central Avenue, Phoenix, Arizona 85012, (602) 207–2217

Copy of this document and the TSD are also available in the air programs section of EPA Region 9's website, www.epa.gov/region09/air.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Office of Air Planning

(AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1248, wicher.frances@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Attainment Finding

A. Phoenix's Current Ozone Classification

The Phoenix metropolitan ozone nonattainment area is located in the eastern portion of Maricopa County, Arizona and encompasses the cities of Phoenix, Mesa, Scottsdale, Tempe, Chandler, Glendale, 17 other jurisdictions, and considerable unincorporated County lands. The area is currently classified as serious for the 1-hour ozone national ambient air quality standard (NAAQS). 40 CFR 81.303.

When the Clean Air Act (CAA) Amendments were enacted in 1990, each area of the County that was designated nonattainment for the 1-hour ozone standard, including the Phoenix area, was classified by operation of law as ''marginal,'' ''moderate,'' ''serious,'' ''severe,'' or ''extreme'' depending on the severity of the area's air quality problem. CAA sections 107(d)(1)(C) and 181(a). The Phoenix metropolitan area was initially classified as moderate. See 40 CFR 81.303 and 56 FR 56694 (November 6, 1991).

Upon the Phoenix area's classification as moderate, the CAA required Arizona to submit a state implementation plan (SIP) demonstrating attainment of the 1-hour ozone standard in the Phoenix area as expeditiously as practicable but no later than November 15, 1996. CAA sections 181(a)(1) and 182(b)(1)(A)(i). The SIP had to also meet several other CAA requirements for moderate areas. See generally CAA section 182(b).

The Phoenix area was still violating the 1-hour ozone standard in late 1996. On November 6, 1997, we determined that the Phoenix metropolitan area had not attained the 1-hour ozone standard by its attainment date of November 15, 1996. As a result of our finding, the area was reclassified to serious, by operation of law under CAA section 181(b)(1)(A). 62 FR 60001.

Upon the Phoenix area's reclassification to serious, the CAA required Arizona to submit a revised SIP demonstrating attainment of the 1-hour ozone standard in the Phoenix area as expeditiously as practicable but no later than November 15, 1999. CAA sections 181(a)(1) and 182(c)(2)(A). The SIP had to also meet several other CAA requirements for serious areas. See generally CAA section 182(c). The serious area SIP revisions were due to us by March 22, 1999. 63 FR 64415 (November 20, 1998).

B. Clean Air Act Requirements for Attainment Findings

Under CAA section 181(b)(2)(A), we must determine within six months of the applicable attainment date whether an ozone nonattainment area has attained the standard. If we find that a serious area has not attained the standard and does not qualify for an extension, it is reclassified by operation of law to severe.[1] Under CAA section 181(b)(2)(A), we must base our determination of attainment or failure to attain on the area's design value as of its applicable attainment date, which for the Phoenix metropolitan area is November 15, 1999.

The 1-hour ozone NAAQS is 0.12 ppm not to be exceeded on average more than one day per year over any three year period. 40 CFR 50.9 and appendix H. Under our policies, we determine if an area has attained the one-hour standard by calculating, at each monitor, the average number of days over the standard per year during the preceding three year period.[2] For this proposal, we have based our determination of attainment on both the design value and the average number of exceedance days per year as of November 15, 1999.

The design value is an ambient ozone concentration that indicates the severity of the ozone problem in an area and is used to determine the level of emission reductions needed to attain the standard, that is, it is the ozone level around which a State designs its control strategy for attaining the ozone standard. A monitor's design value is the fourth highest ambient concentration recorded at that monitor over the previous three years. An area's design value is the highest of the design values from the area's monitors.[3]

We make attainment determinations for ozone nonattainment areas using all available, quality-assured air quality data for the 3-year period up to and including the attainment date.[4] Consequently, we used all 1997, 1998, and 1999 (through November 15) quality-assured air quality data available to determine whether the Phoenix area attained the 1-hour ozone standard by November 15, 1999. From the available data, we have calculated the average number of days over the standard and the design value for each ozone monitor in the Phoenix nonattainment area.

C. Attainment Finding for the Phoenix Area

1. Adequacy of the Phoenix Area Ozone Monitoring Network

Determining whether or not an area has attained under CAA section 181(b)(1)(A) is based on monitored air quality data. Thus, the validity of a determination of attainment depends on whether the monitoring network adequately measures ambient ozone levels in the area.

We have previously expressed concerns regarding the adequacy of the

[1] If a state does not have the clean data necessary to show attainment of the 1-hour standard but does have clean air in the year immediately preceding the attainment date and has fully implemented its applicable SIP, it may apply to EPA, under CAA section 181(a)(5), for a one-year extension of the attainment date.

[2] See generally 57 FR 13506 (April 16, 1992) and Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; ''Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas,'' February 3, 1994 (Berry memorandum). While explicitly applicable only to marginal areas, the general procedures for evaluating attainment in this memorandum apply regardless of the initial classification of an area because all findings of attainment are made pursuant to the same Clean Air Act requirements in section 181(b)(2).

[3] The fourth highest value is used as the design value because a monitor may record up to 3 exceedances of the standard in a 3 year period and still show attainment, that is, with 3 exceedances it would average 1 day over the standard per year, the maximum allowed to show attainment of the 1-hour ozone standard. If the monitor records a fourth exceedance in that period, it would average more than 1 exceedance day per year and would no longer show attainment. Therefore, if a State can reduce the fourth highest ozone value to below the standard, thus preventing a fourth exceedance, then it will be able to demonstrate attainment.

[4] All quality-assured available data include all data available from the state and local/national air monitoring (SLAMS/NAMS) network as submitted to EPA's AIRS system and all data available to EPA from special purpose monitoring (SPM) sites that meet the requirements of 40 CFR 58.13. See *Memorandum* John Seitz, Director, OAQPS, to Regional Air Directors; ''Agency Policy on the Use of Ozone Special Purpose Monitoring Data,'' August 22, 1997.

official ozone monitoring network in the Phoenix area.[5] However, over the past several years, the Maricopa County Environmental Services Department, which operates the local air monitoring system, has made substantial revisions to its ozone monitoring network.

We evaluate four basic elements in determining the adequacy of an area's ozone monitoring network. The network needs to meet the design requirements of 40 CFR part 58, appendix D; the network needs to utilize monitoring equipment designated as reference or equivalent methods under 40 CFR part 53; the agency or agencies operating the equipment need to have a quality assurance plan in place that meets the requirements of 40 CFR part 58, appendix A; and for urban areas with populations greater than 200,000, at least two monitoring sites must be designated as National Air Monitoring Stations (NAMS).

The ozone network in the Phoenix area meets or exceeds all four of these requirements and is therefore adequate for use in determining the ozone attainment status of the area. A more detailed analysis of the ozone monitoring network is contained in the TSD accompanying this proposal.

2. The Phoenix Area's Ozone Design Value for the 1997–1999 Period

We have listed in Table 1 the design values and the number of exceedance days for the 1997 to 1999 period for each monitoring site in the Phoenix metropolitan area. We calculated the design values following the procedures in the Laxton memo.[6] A complete listing of the ozone exceedances at each monitor as well as our calculations of the design values can be found in the TSD.

TABLE 1.—AVERAGE NUMBER OF OZONE EXCEEDANCES DAYS PER YEAR AND DESIGN VALUES BY MONITOR IN THE PHOENIX METROPOLITAN AREA (1997–1999)

Site	Average number of exceedance days per year	Site design value (ppm)
Blue Point	0	0.107
Central Phoenix	0	0.103
Fountain Hills	0	0.113
South Scottsdale	0	0.098
Emergency Management	0	0.109
Falcon Field	0	0.101
Maryvale	0	0.101
Mesa	0	0.109
South Phoenix	0	0.1
West Phoenix	0	0.112
Pinnacle Peak	0	0.112
North Phoenix	0	0.113
Glendale	0	0.099
West Chandler	0	0.094
Palo Verde	0	0.091
JLG Supersite	0	0.098
Mount Ord	0	0.106
Humboldt Mountain	0	0.101

From Table 1, the highest design value at any monitor, and thus the design value for the Phoenix metropolitan ozone nonattainment area, is 0.113 ppm at the Fountain Hills and North Phoenix sites. The Phoenix metropolitan area has not recorded an exceedance of the 1-hour ozone standard at any monitoring site during the 1997 to 1999 period, so the average number of days over the standard at all monitors in the area is zero.

Because the area's design value is below the 0.12 ppm 1-hour ozone standard and the area has averaged less than 1 exceedance per year at each monitor for the 1997 to 1999 period, we propose to find that the Phoenix metropolitan area has attained the 1-hour ozone standard by its Clean Air Act mandated attainment date of November 15, 1999.

D. Attainment Findings and Redesignations to Attainment

A finding that an area has attained the 1-hour ozone standard under CAA section 181(b)(1)(A) does not redesignate the area to attainment for the 1-hour standard nor does it guarantee a future redesignation to attainment.

The redesignation of an area to attainment is a separate process under CAA section 107(d)(3)(E) from a finding of attainment under CAA section 181(b)(1)(A). Unlike an attainment finding where we need only determine that the area has had the pre-requisite number of clean years, a redesignation requires multiple determinations. Under section 107(d)(3)(E), these determinations are:

1. We must determine, *at the time of the redesignation,* that the area has attained the relevant NAAQS.

2. The State must have a fully approved SIP for the area.

3. We must determine that the improvements in air quality are due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal regulations and other permanent and enforceable reductions.

4. We must have fully approved a maintenance plan for the area under CAA section 175(A).

5. The State must have met all the nonattainment area requirements applicable to the area.

At this time, Arizona has not formally requested that we redesignate the Phoenix metropolitan area to attainment for the 1-hour ozone standard nor has it submitted a maintenance plan for the area.

II. Applicability of Clean Air Act Planning Requirements

A. EPA's Policy and its Legal Basis

CAA section 182(c) requires States with serious ozone nonattainment areas to submit certain revisions to their SIPs. These revisions include:

1. a demonstration that the plan will result in emission reductions of ozone precursors of at least 3 percent per year from 1996 to 1999 (this provision is known as the 9 percent rate of progress (ROP) plan), CAA section 182(c)(2)(B);

2. a demonstration that the plan will result in attainment of the 1-hour ozone standard as expeditiously as practicable but not later than November 15, 1999, CAA section 182(c)(2)(A);

3. contingency measures that will be undertaken if the area fails to make reasonable further progress, meet a rate of progress milestone, or to attain the standard by the applicable attainment date, CAA sections 172(c)(9) and 182(c)(9).

For the reasons described below and discussed in our Ozone Clean Data Policy,[7] we believe that it is reasonable

[5] For a description of these concerns, see ''Technical Support Document for the Notice of Final Rulemaking for the Finding of Failure to Attain and Denial of Attainment Date Extension for Ozone in the Phoenix (Arizona) Metropolitan Area,'' EPA Region 9, October 27, 1997.

[6] See *memorandum,* William G. Laxton, Director, Technical Support Division, Office of Air Quality Planning and Standards to Regional Air Directors, ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990.

[7] See *memorandum,* John S. Seitz, Director, OAQPS, EPA, to Regional Air Directors, ''Reasonable Further Progress, Attainment Demonstrations, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' May 10, 1995. We have also explained at length in other actions our rationale for the reasonableness of this interpretation of the Act and incorporate those explanations by reference here. See 61 FR 20458

Continued

to interpret the CAA not to require these provisions for serious ozone nonattainment areas that are determined to be meeting the 1-hour ozone standard.

9 percent ROP Plan

The 9 percent ROP requirement in section 182(c)(2)(B) is the minimum RFP requirement for serious areas.[8]

CAA Section 171(1) states that, for purposes of part D of Title I, RFP ''means such annual incremental reductions in emissions of the relevant air pollutant as are required by [Part D] or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' Thus, whether dealing with the general RFP requirement of section 172(c)(2), or the more specific RFP requirement for a 9 percent ROP in section 182(c)(2)(B), the stated purpose of RFP is to ensure attainment by the applicable attainment date. If an area has in fact attained the standard, the stated purpose of the RFP requirement will have already been fulfilled. We, therefore, do not believe that a State needs to submit revisions providing for the further emission reductions to meet the RFP/ROP provisions of sections 172(c)(2) or 182(c)(2)(B) for serious areas meeting the 1-hour ozone standard.

We note that we took this view with respect to the general RFP requirement of section 172(c)(2) in our ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990'' at 57 FR 13498 (April 16, 1992). In the General Preamble, we stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, that the ''requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point.'' (57 FR 13564.)[9]

Closely tied with the RFP/ROP requirement is the milestone demonstration requirement in CAA section 182(g). This section requires that States with ozone nonattainment areas classified as serious and above must determine every three years, starting in 1996, whether each area has achieved the reductions necessary to meet the required rate of progress milestone. These milestone reports are due to EPA within 90 days after the date on which the milestone occurs (e.g., 90 days after November 15 1996 and November 16, 1999).[10]

For areas that are meeting the 1-hour standard, there is no RFP/ROP requirement and thus no milestone on which to report. Consequently, we believe the milestone reporting requirement in section 182(g) is also not applicable to areas attaining the 1-hour ozone standard.

Attainment Demonstration

Analogous reasoning applies to the attainment demonstration requirement. Section 182(c)(2) requires that a State submit a SIP revision for a serious ozone nonattainment area demonstrating that the plan will ''provide for attainment of the ozone national primary ambient air quality standard by the attainment date'' and that this demonstration be based on ''photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.'' If a serious area has in fact monitored attainment of the standard based on existing controls, we believe it is not necessary for the State to make a further submission containing additional measures or demonstrations to show attainment.

This belief is also consistent with our interpretation of certain section 172(c) requirements in the General Preamble to Title I, where we stated there that no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached.'' (57 FR 13564; *see also* the September 4, 1992, John Calcagni memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' at page 6.) Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Closely tied with the attainment demonstration requirement is the tracking requirement in section 182(c)(5). This section requires that States with ozone nonattainment areas classified as serious and above submit every three years, starting in 1996, a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emissions, congestion levels, and other relevant parameters are consistent with those used for the area's attainment demonstration.

In an area meeting the 1-hour ozone standard, there is no attainment demonstration that requires the use of estimated aggregate vehicle mileage, aggregate vehicle emissions, or other relevant parameters. Consequently, we believe the parameter tracking requirement in section 182(c)(5) is also not applicable to areas attaining the 1-hour ozone standard.

Contingency Measures

CAA section 172(c)(9) requires a State to submit contingency measures that will be implemented if an area fails to make RFP or fails to attain by the applicable attainment date. Section 182(c)(9) additionally requires that the State must submit contingency measures that will be implemented if an area fails to meet a ROP milestone.

We have previously interpreted the contingency measure requirement of section 172(c)(9) as no longer applying once an area has attained the standard since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' See 57 FR 13564; *see also* the September 4, 1992, John Calcagni memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' at page 6. Similarly, the section 182(c)(9) requirement for contingency measures are directed at assuring ROP milestones are met. Because no milestones are required for areas attaining the 1-hour standard, there is no need for contingency measures to ensure that they will be met.

Other Serious Nonattainment Area SIP Requirements

A number of SIP requirements for serious ozone nonattainment areas are not tied to whether the area has attained the 1-hour standard. Arizona is obligated to submit these requirements

(May 7, 1996) (Cleveland-Akron-Lorrain, Ohio); 60 FR 36723 (July 18, 1995) (Salt Lake and Davis Counties, Utah); 60 FR 37366 (July 20, 1995) and 61 FR 31832–31833 (June 21, 1996) (Grand Rapids, MI). Our interpretation has also been upheld by the United States Court of Appeals for the 10th Circuit in *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996).

[8] The title of section 182(c)(2)(B) is ''REASONABLE FURTHER PROGRESS DEMONSTRATION,'' which makes clear that the 9 percent ROP requirement is the minimum RFP requirement for serious areas.

[9] *See also* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, September 4, 1992, at page 6 (stating that the ''requirements for reasonable further progress * * * will not apply for redesignations because they only have meaning for areas not attaining the standard'').

[10] Milestone reports are not required when a milestone occurs on an attainment date in cases where the standard has been attained. In this case, we are proposing to determine that the Phoenix metropolitan area has attained by its attainment date, November 15, 1999, which is also its milestone date. Thus, even if we believed that the milestone requirement applies to areas attaining the 1-hour ozone standard, Arizona would not be required to submit a milestone report.

even if we finalize today's proposed determination that the area has attained the 1-hour standard and that the CAA planning requirements discussed above no longer apply to the area. These requirements include:

- A current, comprehensive, and accurate emission inventory of actual emissions (section 172(c)(3));
- Reasonable available control technology for major sources and certain other sources (section 182(a)(2));
- An enhanced motor vehicle inspection and maintenance program (section 182(c)(3));
- A new source review program (sections 172(c)(5), 173(a), and 182(c)(6)–(8) and (10));
- An enhanced ambient monitoring program (section 182(c)(1)); and
- A clean fuel vehicle program (section 182(c)(4)).

B. Effects of the Proposed Determination on the Phoenix Area and a Future Violation on This Proposed Determination

If we finalize today's proposed determinations for the Phoenix metropolitan ozone nonattainment area, then the State of Arizona will no longer be required to submit a 9 percent ROP plan, an attainment demonstration, or contingency measures for the area. Any sanction clocks under CAA section 179(a) or requirements that we promulgate a federal implementation plan under CAA section 110(c) for these SIP requirements are suspended.

The lack of a requirement to submit these SIP revisions and the suspension of sanction clocks/FIP requirements will exist only as long as the Phoenix metropolitan area continues to attain the 1-hour ozone standard. If we subsequently determine that the Phoenix area has violated the 1-hour ozone standard (prior to a redesignation to attainment), the basis for the determination that the area need not make these SIP revisions would no longer exist. Thus, a determination that an area need not submit these SIP revisions amounts to no more than a suspension of the requirement for so long as the area continues to attain the standard.

Should the Phoenix metropolitan area begin to violate the 1-hour standard, we will notify Arizona that we have determined that the area is no longer attaining the 1-hour standard. We also will provide notice to the public in the **Federal Register**. Once we determine that the area is no longer attaining the 1-hour ozone standard then Arizona will be required to address the pertinent SIP requirements within a reasonable amount of time. We will set the deadline for the State to submit the required SIP revisions at the time we make a nonattainment finding.

Arizona must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the ozone standard must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance.

C. Effect of the Proposed Determination on Transportation Conformity

CAA section 176(c) requires that federally funded or approved transportation actions in nonattainment areas ''conform'' to the area's air quality plans. Conformity ensures that federal transportation actions do not worsen an area's air quality or interfere with its meeting the air quality standards.

One of the primary tests for conformity is to show that transportation plans and improvement programs will not cause motor vehicle emissions higher than the levels needed to make progress toward and to meet the air quality standards. These motor vehicle emissions levels are set in an area's attainment, maintenance and/or RFP demonstrations and are known as the ''transportation conformity budget.''

We set the current ozone conformity budget for the Phoenix metropolitan area in our revised federal 15 percent ROP plan. 64 FR 36243 (July 6, 1999). A finding that the Phoenix area has attained the 1-hour and that the State no longer needs to submit attainment and ROP/RFP demonstrations will not affect the continued applicability of this budget. This budget will remain applicable until Arizona submits a maintenance demonstration with a revised transportation conformity budget (or should the Phoenix area again violate the 1-hour ozone standard, attainment and RFP/ROP demonstrations with budgets) and we find the new budget adequate.

III. Administrative Requirements

This action merely proposes to find that the Phoenix area has attained a previously-established national ambient air quality standard based on an objective review of measured air quality data. It also proposes to determine that certain Clean Air Act requirements no longer apply to the Phoenix area because of the attainment finding. If finalized, it would not impose any new regulations, mandates, or additional enforceable duties on any public, nongovernmental or private entity. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. It does not contain any unfunded mandate or significantly or uniquely affects small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) nor does it significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084, Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, Federalism (64 FR 43255, August 10, 1999) because it does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed action also is not subject to Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply to this proposed action because it would be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures that otherwise satisfy the provisions of the Clean Air Act. As required by section 3 of Executive Order 12988, Civil Justice Reform (61 FR 4729, February 7, 1996), in issuing this proposed action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for

the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 11, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–12644 Filed 5–18–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6604–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal to delete releases at the Mid-Atlantic Wood Preservers, Inc. Site from the National Priorities List (NPL).

SUMMARY: The EPA proposes to delete releases at the Mid-Atlantic Wood Preservers, Inc. Site (the Site) from the NPL and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The EPA has determined that no further response pursuant to CERCLA is appropriate.

DATES: Comments concerning this deletion must be received by June 19, 2000.

ADDRESSES: Comments may be mailed to Matthew T. Mellon, Remedial Project Manager, U.S. EPA, Region III, 1650 Arch Street (3HS23), Philadelphia, PA 19103–2029.

Comprehensive information on the Site is available at EPA's Region III office and at the local information repository located at the Provinces Branch Library, Severn Square Shopping Center, 2624 Annapolis Road, Severn, MD, 21144.

Requests for copies of documents associated with this action should be directed to the Region III Docket Office. The address and phone number for the Regional Docket Officer is U.S. EPA Region III Public Reading Room, 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3157.

FOR FURTHER INFORMATION CONTACT: Matthew T. Mellon, Remedial Project Manager, U.S. EPA, Region III, 1650 Arch Street (3HS23), Philadelphia, PA 19103–2029, (215) 814–3168, or Richard Kuhn, Community Involvement Coordinator, U.S. EPA, Region III, 1650 Arch Street (3HS43), Philadelphia, PA 19103–2029, (215) 814–3063.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final notice which is located in the Rules section of this **Federal Register**.

Dated: April 5, 2000.

Bradley M. Campbell,

Regional Administrator.

[FR Doc. 00–12517 Filed 5–18–00; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1159

RIN 3135–AA16

Implementation of the Privacy Act of 1974

AGENCY: National Endowment for the Arts, NFAH

ACTION: Proposed rule.

SUMMARY: The National Endowment for the Arts (Endowment) proposes to amend its Privacy Act regulations to reflect administrative changes at the agency and to comply with the President's Memorandum on Plain Language in Government Writing. These regulations establish procedures by which an individual may determine whether a system of records maintained by the Endowment contains a record pertaining to him or her; gain access to such records; and request correction or amendment of such records. These regulations also establish exemptions from certain Privacy Act requirements for all or part of certain systems of records maintained by the Endowment.

DATES: Written comments on these regulations must be received by June 19, 2000.

ADDRESSES: Interested persons should submit written comments concerning these regulations to Karen Elias, Deputy General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW, Room 518, Washington, DC 20506. Written comments may also be sent to Ms. Elias by telefax at (202) 682–5572 or by electronic mail at eliask@arts.endow.gov.

FOR FURTHER INFORMATION CONTACT: Karen Elias, (202) 682–5418.

SUPPLEMENTARY INFORMATION: The Endowment operates as part of the National Foundation on the Arts and the Humanities under the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq*). The corresponding regulations published at 45 CFR Chapter XI, Subchapter A apply to the entire Foundation, while the regulations published at 45 CFR Chapter XI, Subchapter B apply only to the Endowment.

This proposed rule adds Privacy Act regulations to Subchapter B (45 CFR part 1159), replacing existing regulations in Subchapter A (45 CFR part 1115) with regard to the Endowment. The new regulations reflect administrative changes at the Endowment. In addition, the new regulations' question-and-answer format and increased detail as to several provisions of the Privacy Act are intended to increase understanding of the Endowment's Privacy Act policies. The Endowment is authorized to propose the new regulations under 5 U.S.C. 552a(f) of the Privacy Act.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

This proposed rule is not classified as a significant rule under Executive Order 12866 because it will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required. In addition, based on the assessments noted in this paragraph, this proposed rule is not a ''major rule'' as defined at 5 U.S.C. 804(2).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small