The actions in this document are taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR part 1911.

Signed at Washington, DC., this 2nd day of February, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

For the reasons set forth above, 29 CFR part 1910 is hereby amended as follows:

PART 1910—[AMENDED]

1. The Authority citation for subpart R of 29 CFR part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

Sections 1910.261, 1910.262, 1910.265, 1910.266, 1910.267, 1910.268, 1910.272, 1910.274, and 1910.275 also issued under 29 CFR part 1911.

Section 1910.272 also issued under 5 U.S.C. 553.

2. A note is added at the end of § 1910.266, to read as follows:

§ 1910.266 Logging operations.

* * * * *

Note: In the **Federal Register** of February 8, 1995, OSHA stayed the following paragraphs of § 1910.266 from February 9, 1995 until August 9, 1995:

1. (d)(1)(v) insofar as it requires foot protection to be chain-saw resistant.
2. (d)(1)(vii) insofar as it requires face protection.
3. (d)(2)(iii).
4. (f)(2)(iv).
5. (f)(2)(xi).
6. (f)(3)(ii).
7. (f)(3)(vii).
8. (f)(3)(viii).
9. (f)(7)(ii) insofar as it requires that parking brakes be able to stop the machine.
10. (g)(1) and (g)(2) insofar as they require inspection and maintenance of employee-owned vehicles.
11. (h)(2)(vii) insofar as it precludes backcuts at the level of the horizontal cut of the undercut when the Humboldt cutting method is used.

[FR Doc. 95–3041 Filed 2–7–95; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 93

[FRL–5149–8]

Transportation Conformity Rule Amendments: Transition to the Control Strategy Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: This action aligns the timing of certain transportation conformity consequences with the imposition of Clean Air Act highway sanctions for a six-month period. For ozone nonattainment areas with an incomplete 15% emissions-reduction state implementation plan with a protective finding; incomplete ozone attainment/3% rate-of-progress plan; or finding of failure to submit an ozone attainment/3% rate-of-progress plan, and areas whose control strategy implementation plan for ozone, carbon monoxide, particulate matter, or nitrogen dioxide is disapproved with a protective finding, the conformity status of the transportation plan and program will not lapse as a result of such failure until highway sanctions for such failure are effective under other Clean Air Act sections.

This action delays the lapse in conformity status, which would otherwise prevent approval of new highway and transit projects, and allows States more time to prevent the lapse by submitting complete control strategy implementation plans. EPA is issuing this interim final rule, effective for a six-month period, without prior proposal in order to prevent previously unforeseeable delays in State ozone implementation plan development from causing widespread conformity lapsing. In a parallel action in this **Federal Register**, EPA is requesting comment on this interim final rule and on similar but permanent rule changes.

EFFECTIVE DATE: This interim final rule is effective on February 8, 1995 until August 8, 1995.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–95–02. The docket is located in room M–1500 Waterside Mall (ground floor) at the Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected from 8 a.m. to 4 p.m., Monday through Friday, including all non-government holidays.

FOR FURTHER INFORMATION CONTACT: Kathryn Sargeant, Emission Control Strategies Branch, Emission Planning and Strategies Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. (313) 668–4441.

SUPPLEMENTARY INFORMATION:

I. Background

A. Transportation Conformity Rule

The final transportation conformity rule, ''Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act,'' was published November 24, 1993 (58 FR 62188) and amended 40 CFR parts 51 and 93. The Notice of Proposed Rulemaking was published on January 11, 1993 (58 FR 3768).

Required under section 176(c) of the Clean Air Act, as amended in 1990, the transportation conformity rule established the criteria and procedures by which the Federal Highway Administration, the Federal Transit Administration, and metropolitan planning organizations determine the conformity of federally funded or approved highway and transit plans, programs, and projects to state implementation plans (SIPs). According to the Clean Air Act, federally supported activities must conform to the implementation plan's purpose of attaining and maintaining the national ambient air quality standards.

The final transportation conformity rule requires that conformity determinations use the motor vehicle emissions budget(s) in a submitted ''control strategy'' SIP (defined below), and the rule includes special provisions to address failures in control strategy SIP development. These failures include failure to submit a control strategy SIP, submission of an incomplete control strategy SIP, or disapproval of a control strategy SIP. Specifically, according to 40 CFR 51.448 (and 40 CFR 93.128), following these SIP development failures, no new or amended transportation plans or transportation improvement programs (TIPs) may be found to conform to the SIP after a certain grace period (i.e., the existing transportation plan and TIP are ''frozen''), and eventually, the conformity status of the existing transportation plan and TIP lapses.

When the conformity status of the transportation plan and TIP lapses, no new project-level conformity determinations may be made, and the only federal highway and transit projects which may proceed are exempt or grandfathered projects. Non-federal

highway or transit projects may be adopted or approved by recipients of funds designated under title 23 U.S.C. or the Federal Transit Act only if they are not regionally significant.

As described in the preamble to the final transportation conformity rule (58 FR 62191–3), EPA developed these requirements in response to public comments which claimed that the proposed interim period conformity criteria (e.g., the ''build/no-build test'') did not ensure emissions reductions consistent with Clean Air Act requirements for reasonable further progress and attainment, and which emphasized the importance of emissions budgets in determining conformity. EPA imposed restrictions such as conformity lapsing where the State failed to establish emission budgets in a timely fashion, because EPA believed that in the prolonged absence of a control strategy SIP, preventing new conformity determinations and postponing new commitments of funds would prevent uncontrolled emissions increases while the State was establishing its control strategies.

B. Control Strategy SIP Requirements

Control strategy SIPs include 15% rate-of-progress plans, reasonable further progress plans, and attainment demonstrations.

Clean Air Act section 182(b)(1) required moderate and above ozone nonattainment areas to submit a 15% volatile organic compound emission reduction rate-of-progress plan by November 15, 1993. Moderate ozone areas were also required by that section to submit an attainment demonstration by this date if they were not using photochemical grid modeling to develop the demonstration.

Serious and above ozone nonattainment areas (and moderate ozone nonattainment areas using photochemical grid modeling under EPA's interpretation of section 182(b)(1)) were required to submit an attainment demonstration by November 15, 1994 under Clean Air Act section 182(c)(2)(A). Clean Air Act section 182(c)(2)(B) also required serious and above ozone nonattainment areas to submit by this date a reasonable-further-progress (or rate-of-progress) plan for 3% annual emission reductions until the attainment date.

Carbon monoxide (CO) nonattainment areas classified as moderate with design value greater than 12.7 parts per million or serious were required by Clean Air Act section 187(a)(7) to submit an attainment demonstration by November 15, 1992.

Areas in nonattainment for particulate matter less than a nominal 10 microns in aerodynamic diameter (PM–10) were required to submit an attainment demonstration at varying dates depending upon their date of classification, but Clean Air Act section 189(a)(1)(B) required many areas to submit the attainment demonstration by November 15, 1991.

Nitrogen dioxide (NO_2) areas were required by Clean Air Act section 191 to submit an attainment demonstration by May 15, 1992.

II. Description of Interim Final Rule

A. Incomplete 15% SIPs and Disapprovals With Protective Findings

This interim final rule delays the lapse in transportation plan/TIP conformity until Clean Air Act section 179(b) highway sanctions are effective, for areas with a 15% SIP which EPA found incomplete but noted in the finding (according to 40 CFR 51.448(c)(1)(iii)) that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act section 110(a)(2)(A) (i.e., incomplete with a ''protective finding''). EPA is also similarly delaying the conformity lapse which results from EPA disapproval of a control strategy SIP with a ''protective finding'' as described in 40 CFR 51.448(a)(3) and (d)(3). Clean Air Act highway sanctions will become effective in both types of areas two years following the date of EPA's incompleteness determination or disapproval, unless the State remedies the failure.

Under the November 1993 transportation conformity rule, the conformity status of the transportation plan and TIP lapses in such areas twelve months following the incompleteness determination or disapproval, unless another SIP is submitted to EPA and found to be complete. This interim final rule delays the transportation plan/TIP conformity lapse. It also restores the conformity status of transportation plans and TIPs for which twelve months have already elapsed since EPA made the incompleteness determination or disapproval with protective finding, provided conformity has not lapsed for other reasons under the transportation conformity rule. A list of areas with incomplete 15% SIPs with protective findings (and the dates of those EPA findings) is in the docket.

EPA is delaying the transportation plan/TIP conformity lapse in these areas because the agency now believes that a twelve-month period to make these control strategy SIPs fully enforceable is a too stringent definition of ''timely'' SIP development in this particular context, given the lengthy legislative and administrative processes of many States. Although EPA believed this time period was appropriate at the time EPA promulgated the transportation conformity rule, EPA has now seen that in practice the time was too short to be reasonable for purposes of determining when transportation plans and TIPs should lapse following SIP development failures.

EPA believes it is appropriate to allow States more time to complete these SIPs before negative conformity consequences are imposed, particularly because in these areas with incompleteness findings or disapprovals with protective findings, the State has developed motor vehicle emissions budget(s) which are part of an overall strategy to achieve the required emission reductions and therefore are appropriate for use in conformity determinations. In these areas, lapsing is not necessary in the short term to prevent uncontrolled motor vehicle emissions increases while the State completes the SIP, because the motor vehicle emissions budget(s) are already applying in conformity determinations as a constraint.

However, EPA continues to believe that a conformity lapse is appropriate in the prolonged absence of a complete control strategy SIP. In such cases, EPA can no longer remain confident that states will be able to adopt and implement the rules necessary to support the SIP emissions budget. EPA believes that the application of Clean Air Act highway sanctions signifies that SIP development has not proceeded in a timely fashion and, therefore, that the conformity process should ensure that significant new transportation projects will not be undertaken.

B. Ozone Attainment/3% Rate-of-Progress SIPs

For ozone nonattainment areas which fail to submit an attainment SIP due November 15, 1994 (including moderate areas using photochemical grid modeling) and/or a 3% rate-of-progress SIP revision (hereafter called an ''attainment/3% rate-of-progress SIP''), this interim final rule similarly delays the transportation plan/TIP conformity lapse until Clean Air Act highway sanctions are effective. Clean Air Act highway sanctions apply in these areas two years following the date of EPA's finding of failure to submit, unless the State remedies the failure. This rule also

eliminates the transportation plan/TIP ''freeze'' in these areas.

Under the November 1993 transportation conformity rule, in ozone nonattainment areas where EPA finds a failure to submit the attainment/3% rate-of-progress SIP, no new or amended transportation plans or TIPs could be adopted after March 15, 1995 (i.e., the existing transportation plan/TIP would be ''frozen''). The conformity status of the transportation plan and TIP would have lapsed November 15, 1995.

This interim final rule also delays the transportation plan/TIP conformity lapse until the application of Clean Air Act highway sanctions for ozone nonattainment areas with incomplete attainment/3% rate-of-progress SIPs. This rule also eliminates the transportation plan/TIP ''freeze'' for these areas.

Under the November 1993 transportation conformity rule, if EPA found an area's ozone attainment/3% rate-of-progress SIP incomplete without a protective finding, the transportation plan/TIP would have ''frozen'' 120 days following EPA's incompleteness finding, and the conformity status of the transportation plan/TIP would have lapsed November 15, 1995. For areas for which EPA made an incompleteness determination with a protective finding, the conformity status of the transportation plan/TIP would have lapsed twelve months from the date of the incompleteness finding (no ''freeze'' would have occurred).

Under this interim final rule, in any ozone nonattainment area with an incomplete attainment/3% rate-of-progress SIP, the conformity status of the transportation plan/TIP will not lapse until Clean Air Act section 179(b)(1) highway sanctions are effective as a result of the incompleteness (provided the conformity status of the transportation plan and TIP does not lapse for other reasons under the transportation conformity rule). Consequently, there will be no distinction among incompleteness determinations regarding protective findings.

EPA is delaying the transportation plan/TIP conformity lapse due to failure to submit and incomplete ozone attainment/3% rate-of-progress SIPs because unforeseeable delays in the development of these SIPs, including delays beyond the control of state air quality planning agencies due to the complexity of required modeling, have convinced the agency that the grace periods in the November 1993 rule constitute a too stringent definition of ''timely'' establishment of emissions budgets in this particular context. Since states have been proceeding towards SIP development and delays have not been within their control, EPA now believes that the original grace period is unreasonable.

However, EPA continues to believe that conformity lapsing is appropriate in the prolonged absence of a complete ozone attainment/3% rate-of-progress SIP. EPA believes that the application of Clean Air Act highway sanctions signifies that SIP development has not proceeded in a timely fashion and, therefore, that the conformity process should ensure that significant new transportation projects will not be undertaken.

C. Other Control Strategy SIPs

This interim final rule does not change the consequences in 40 CFR 51.448 for disapproval of any control strategy SIP without a protective finding; for failure to submit or submission of incomplete CO, PM–10, or NO_2 attainment demonstrations; or for failure to submit or submission of incomplete 15% SIPs without protective findings. EPA believes that transportation plan/TIP ''freeze'' and conformity lapse is appropriate as currently required because in these cases adequate emissions budgets have not been established in a timely fashion.

III. Rulemaking Process

A. Rulemaking Procedures

This rule is being published as an interim final rule without benefit of a prior proposal and public comment period because EPA finds that ''good cause'' exists for deferring those procedures until after publishing the changes as an interim final rule. Good cause exists for two reasons. First, it is contrary to the public interest for the transportation conformity rule to halt implementation of transportation plans, programs, and projects when for the reasons described above EPA believes that such delay is not necessary at this time for the lawful and effective implementation of Clean Air Act section 176(c).

Furthermore, the conformity consequences for ozone areas which this interim final rule delays would have occurred before full notice-and-comment rulemaking could have been completed. EPA could not have initiated full notice-and-comment rulemaking far enough in advance to effectively delay the conformity consequences at issue because it was first necessary to evaluate the States' progress in control strategy SIP development and submission, and to determine whether the existing grace periods were appropriate. In addition, it is possible that a disapproval with a protective finding could have occurred during the full notice-and-comment rulemaking process. Thus, it was impracticable to provide notice-and-comment procedures prior to the time by which EPA needs to implement these changes to avoid the conformity consequences that would otherwise result under the existing rule.

Although prior notice-and-comment rulemaking was impracticable, a draft of this rule was distributed to representatives of affected State and local transportation and air quality planning agencies and the public, and a conference call was held with stakeholders such as the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials, the American Association of State Highway and Transportation Officials, the American Public Transit Association, the National Association of Regional Councils, the American Association of Metropolitan Planning Organizations, the National Governors' Association, the Surface Transportation Policy Project, the Environmental Defense Fund, the Natural Resources Defense Council, the Sierra Club Legal Defense Fund, the Highway Users Federation, and the American Road and Transportation Builders Association to solicit input on the interim final rule prior to promulgation.

In addition, the Secretary of Transportation reviewed and concurred with this interim final rule.

This interim final rule is taking effect immediately upon publication because, as described above, conformity lapsing which is contrary to the public interest would otherwise be occurring during the 30-day period between publication and the effective date ordinarily provided under the Administrative Procedures Act (APA), 5 U.S.C. 553(d). EPA finds good cause to make this interim final rule effective immediately for the same reasons described above in justification of taking final action without prior proposal. In addition, this rule relieves a restriction and, therefore, qualifies for an exception from the APA's 30-day advance-notice period under 5 U.S.C. 553(d)(1).

The provisions of this interim final rule shall apply only for six months, during which time EPA will conduct full notice-and-comment rulemaking on these provisions and whether to make these provisions permanent. A proposed rule is published in the proposed rule section of this **Federal Register**, and the public comment period on this proposal will last until March 10, 1995. Public

comments will be addressed in a subsequent final rule, which will be promulgated before the six-month limit on the applicability of this interim final rule expires.

B. Future Amendments to the Transportation Conformity Rule

EPA intends to make additional limited amendments to the transportation conformity rule. EPA intends to clarify certain ambiguous language in 40 CFR 51.448 and 93.128 to ensure implementation consistent with the intent of EPA and the Department of Transportation (DOT), as expressed in guidance memoranda issued since November 1993. These changes are necessary to have legal certainty that the amendments promulgated today will continue to have their intended effect.

In addition, EPA intends to amend the transportation conformity rule in order to allow transportation control measures which are in an approved SIP and have been included in a conforming transportation plan and TIP to proceed even if the conformity status of the current transportation plan and TIP has lapsed.

EPA is not issuing these amendments in this interim final rule because prior notice-and-comment rulemaking is not impracticable in these cases. EPA intends to propose these amendments in a Notice of Proposed Rulemaking within the next several months, and representatives from the organizations listed above will be given an opportunity to comment on a draft NPRM this month.

Since publication of the transportation conformity rule in November 1993, EPA, DOT, and state and local air and transportation officials have had experience implementing the criteria and procedures in the rule. It is that mutual experience which leads to the amendments which EPA will be proposing today and in the very near future. In each case, the amendments are needed to clarify ambiguities, correct errors, or make the conformity process more logical and feasible.

There are many other issues which were debated in the original rulemaking, some of which are the subject of litigation at this time. EPA does not intend its issuance of back-to-back rulemakings to imply a willingness to open the conformity rule to amendments which suit one or the other petitioners' purpose. Both EPA and DOT, of course, are very willing and eager to assist transportation and air quality planners in complying with the rule and the statutory intent.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action.'' As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Reporting and Recordkeeping Requirements

This rule does not contain any information collection requirements from EPA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA).

EPA has determined that today's regulations will not have a significant impact on a substantial number of small entities. This regulation affects moderate and above ozone nonattainment areas, which are almost exclusively urban areas of substantial population, and affects federal agencies and metropolitan planning organizations, which by definition are designated only for metropolitan areas with a population of at least 50,000.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this regulation does not have a significant impact on a substantial number of small entities.

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Reporting and Recordkeeping Requirements, Volatile organic compounds.

40 CFR Part 93

Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Ozone.

Dated: January 31, 1995.

Carol M. Browner,

Administrator.

40 CFR parts 51 and 93 are amended as follows:

PARTS 51 AND 93—[AMENDED]

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

Authority: 42 U.S.C. 7401(a)(2), 7475(e), 7502 (a) and (b), 7503, 7601(a)(1) and 7602.

2. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401–7671p.

3. The identical texts of §§ 51.448 and 93.128 are amended as follows:

a. By redesignating paragraphs (b)(2) and (c)(2) as (b)(3) and (c)(3);

b. In the newly redeisgnated paragraph (c)(3)(iii) by revising the reference ''paragraphs (c)(2)(i) and (ii)'' to read ''paragraphs (c)(3)(i) and (ii); and

c. By adding new paragraphs (a)(4), (b)(2), (c)(2), and (d)(4).

The identical text of additions reads as follows: § _____._____ Transition from the interim period to the control strategy period.

(a) * * *

(4) Until August 8, 1995, for areas otherwise subject to paragraph (a)(3) of this section, the conformity lapse imposed by the final sentence of paragraph (a)(3) of this section shall not apply. The conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the Clean Air Act, unless another control strategy implementation

plan revision is submitted to EPA and found to be complete.

(b) * * *

(2) Until August 8, 1995, for ozone nonattainment areas where EPA has notified the State, MPO, and DOT of the State's failure to submit a control strategy implementation plan revision required by Clean Air Act sections 182(c)(2)(A) and/or 182(c)(2)(B), failure to submit an attainment demonstration for an intrastate moderate ozone nonattainment area that chose to use the Urban Airshed Model for such demonstration, or failure to submit an attainment demonstration for a multistate moderate ozone nonattainment area, the following shall apply in lieu of the provisions of paragraph (b)(1) of this section:

(i) The conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area for such failure under section 179(b)(1) of the Clean Air Act, unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator; and

(ii) The consequences described in paragraph (b)(1) of this section shall be nullified if such provisions have been applied as a result of a failure described in paragraph (b)(2) of this section, and paragraph (b)(2) of this section shall henceforth apply with respect to any such failure.

* * * * *

(c) * * *

(2) Until August 8, 1995, for the ozone nonattainment areas described in paragraph (c)(2)(i) of this section, the following shall apply in lieu of the provisions of paragraph (c)(1) of this section:

(i) The conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions are imposed on the nonattainment area under section 179(b)(1) of the Clean Air Act for the failures described below, unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator, in ozone nonattainment areas where EPA notifies the State, MPO, and DOT that any of the following control strategy implementation plan revisions are incomplete:

(A) The implementation plan revision due November 15, 1994, as required by Clean Air Act sections 182(c)(2)(A) and/or 182(c)(2)(B);

(B) The attainment demonstration required for moderate intrastate ozone nonattainment areas which chose to use the Urban Airshed Model for such demonstration and for multistate moderate ozone nonattainment areas; or

(C) The VOC reasonable further progress demonstration due November 15, 1993, as required by Clean Air Act section 182(b)(1), if EPA notes in its incompleteness finding as described in paragraph (c)(1)(iii) of this section that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by Clean Air Act section 110(a)(2)(A); and

(ii) The consequences described in paragraph (c)(1) of this section shall be nullified if such provisions have been applied as a result of a failure described in paragraph (c)(2)(i) of this section, and paragraph (c)(2) of this section shall henceforth apply with respect to any such failure.

* * * * *

(d) * * *

(4) Until August 8, 1995, for areas otherwise subject to paragraph (d)(3) of this section, the conformity lapse imposed by the final sentence of paragraph (d)(3) of this section shall not apply. The conformity status of the transportation plan and TIP shall lapse on the date that highway sanctions as a result of the disapproval are imposed on the nonattainment area under section 179(b)(1) of the Clean Air Act, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.

* * * * *

[FR Doc. 95–3003 Filed 2–7–95; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[OH06–2–6229, OH01–2–6230, OH32–2–6231; FRL–5151–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a redesignation request and maintenance plan for Preble, Columbiana, and Jefferson County, Ohio as a revision to Ohio's State Implementation Plan (SIP) for ozone.

The revision is based on a request from the State of Ohio to redesignate these areas, and approve their maintenance plans, and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This final rule becomes effective on March 10, 1995.

ADDRESSES: Copies of the requested redesignation, maintenance plan, and other materials relating to this rulemaking are available for public inspection during normal business hours at the following addresses: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604; and Jerry Kurtzweg (ANR–443), United States Environmental Protection, Agency, 401 M Street, S.W. Washington, D.C. 20460. (It is recommended that you telephone William Jones at (312) 886–6058, before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: William Jones, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6058.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the pre-amended Clean Air Act (CAA), the United States Environmental Protection Agency (USEPA) promulgated the ozone attainment status for each area of every State. For the State of Ohio, Preble, Columbiana, and Jefferson Counties were designated as nonattainment areas for ozone. See 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. No. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Pursuant to Section 107(d)(1)(C)(i) of the amended CAA, Preble, Jefferson, and Columbiana Counties retained their designations of nonattainment for ozone by operation of law. See 56 FR 56694 (November 6, 1991). At the same time, Preble and Jefferson Counties were classified as transitional areas; and Columbiana County was classified as an incomplete data area.

The Ohio Environmental Protection Agency (OEPA) requested that Preble County be redesignated to attainment in a letter dated May 23, 1986; and that Jefferson and Columbiana Counties be redesignated to attainment in a letter dated July 14, 1986. On December 20, 1993, the United States Environmental Protection Agency (USEPA) proposed to disapprove the requested redesignations. See 58 FR 66334. The public comment period was from December 20, 1993, to January 19, 1994. Only one public comment was received on the proposed rulemaking to disapprove the redesignations. It was a January 18, 1994, letter from the State of Ohio requesting a 90-day extension of