

rule should do so at this time. If no adverse comments are received, the public is advised that this rule will be effective in 60 days. (See 47 FR 27073 and 59 FR 24059).

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.

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

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated annual costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 182 of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to

state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated annual costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. 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 rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 18, 1995.

William J. Muszynski,
Deputy Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart FF—New Jersey

2. Section 52.1582 is amended by adding paragraph (d) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(d) The base year ozone precursor emission inventory requirement of section 182(a)(1) of the 1990 Clean Air Act Amendments has been satisfied for the Atlantic City, New York/ Northern

New Jersey/Long Island, Philadelphia/ Wilmington/ Trenton, and Allentown/ Bethlehem/Easton areas of New Jersey. The inventory was submitted on November 15, 1993 and amended on November 21, 1994 by the New Jersey Department of Environmental Protection as a revision to the ozone State Implementation Plan (SIP).

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BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[LA-15-1-6073a; FRL-5307-4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plan for the New Orleans Consolidated Metropolitan Statistical Area (CMSA); Redesignation of the New Orleans CMSA To Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 15, 1994, the State of Louisiana submitted a revised maintenance plan and request to redesignate the New Orleans CMSA ozone nonattainment area to attainment. The New Orleans CMSA is comprised of six parishes: Jefferson, Orleans, St. Charles, St. Bernard, St. John the Baptist, and St. Tammany. Maintenance and contingency plans are not included in the action for the parishes of St. John the Baptist and St. Tammany. St. John the Baptist Parish was previously redesignated to attainment, and St. Tammany Parish has never been designated as nonattainment.

This maintenance plan and redesignation request was initially submitted to the EPA on April 23, 1993. Although the EPA deemed this initial submittal complete on September 10, 1993, certain approvability issues existed. The State of Louisiana addressed these approvability issues and has revised its submissions. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is approving Louisiana's redesignation request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is approving the 1990 base year emissions inventory. The approved maintenance plan will become a federally enforceable part of

the State Implementation Plan (SIP) for Louisiana.

DATES: This final rule is effective on December 1, 1995, unless notice is postmarked by November 1, 1995, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Air and Radiation Docket and Information Center, U.S.

Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wishing to review this petition at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Air Planning Section (6PD-L), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7219.

SUPPLEMENTARY INFORMATION:

Background

The CAA, as amended in 1977 required areas that were designated nonattainment based on a failure to meet the ozone National Ambient Air Quality Standards (NAAQS) to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. The New Orleans CMSA was designated under section 107 of the 1977 CAA as nonattainment with respect to the ozone NAAQS on September 11, 1978 (40 CFR 81.319). In accordance with section 110 of the 1977 CAA, the State of Louisiana submitted an ozone SIP as required by part D on December 10, 1979. EPA fully approved this ozone SIP on October 29, 1981 (46 FR 53412). The most recent revision to the ozone SIP occurred on May 5, 1994, when the EPA approved a SIP revision for the State of Louisiana to correct certain enforceability deficiencies in its volatile organic compounds (VOC) rules (59 FR 23164). For purposes of

redesignations, the State of Louisiana has an approved ozone SIP for these parishes being considered for redesignation.

On November 15, 1990, the CAA Amendments of 1990 were enacted (Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). The ozone nonattainment designation for Jefferson, Orleans, St. Charles, and St. Bernard Parishes continued by operation of law according to section 107(d)(1)(C)(i) of the CAA, as amended in 1990 (See 56 FR 56694, November 6, 1991). Since the State had collected the required three years of ambient air quality data necessary to petition for redesignation to attainment, and these data demonstrate that the ozone standard had not been violated, the New Orleans CMSA was designated as transitional for ozone.

The Louisiana Department of Environmental Quality (LDEQ) has continued to collect ambient monitoring data that show no violations of the ozone NAAQS of .12 parts per million. The State developed maintenance plans for Jefferson, Orleans, St. Bernard, and St. Charles Parishes, and solicited public comment. Subsequently, the State of Louisiana submitted a request, through the Governor's office, to redesignate these parishes to attainment with respect to the ozone NAAQS. The initial redesignation request and maintenance plans for the New Orleans CMSA were submitted to the EPA on April 23, 1993. Although these maintenance plans and the redesignation request were deemed complete, several approvability issues existed. The State of Louisiana addressed these approvability issues, and submitted revised maintenance plans and a redesignation request accordingly. The revised redesignation request for the New Orleans CMSA was received on October 14, 1994.

Evaluation Criteria

The 1990 Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment: (1) The area must have attained the applicable NAAQS; (2) the area must meet all applicable requirements under section 110 and part D of the CAA; (3) the area must have a fully approved SIP under section 110(k) of the CAA; (4) the air quality improvement must be permanent and enforceable; and, (5) the area must have a fully approved maintenance plan pursuant to section 175A of the CAA. Section 107(d)(3)(D) allows a Governor to initiate the

redesignation process for an area to apply for attainment status.

Please see EPA's Technical Support Document (TSD) contained in the docket for a detailed discussion of these requirements.

(1) Attainment of the NAAQS for Ozone

Attainment of the ozone NAAQS is determined based on the expected number of exceedances in a calendar year. The method for determining attainment of the ozone NAAQS is contained in 40 CFR 50.9 and appendix H to that section. The simplest method by which expected exceedances are calculated is by averaging actual exceedances at each monitoring site over a three year period. An area is in attainment of the standard if this average results in expected exceedances for each monitoring site of 1.0 or less per calendar year. When a valid daily maximum hourly average value is not available for each required monitoring day during the year, the missing days must be accounted for when estimating exceedances for the year. Appendix H provides the formula used to estimate the expected number of exceedances for each year.

The State of Louisiana's request is based on an analysis of quality-assured ozone air quality data which is relevant to both the maintenance plan and to the redesignation request. The data come from the State and Local Air Monitoring Station network. This request is based on ambient air ozone monitoring data collected for more than 3 consecutive years in the area. Jefferson, Orleans, St. Bernard, and St. Charles Parishes have collected ozone data since 1982, 1981, 1981, and 1991, respectively. The data clearly show an expected exceedance rate of less than 1 for all these parishes. Please see the TSD for the detailed air quality monitoring data.

In addition to the demonstration discussed above, EPA required completion of air network monitoring requirements set forth in 40 CFR part 58. This included a quality assurance plan revision and a monitoring network review to determine the adequacy of the ozone monitoring network. The LDEQ fulfilled these requirements to complete documentation for the air quality demonstration. The LDEQ has also committed to continue monitoring in the New Orleans CMSA in accordance with 40 CFR part 58.

In summary, EPA believes that the data submitted by the LDEQ provides an adequate demonstration that the New Orleans CMSA attained the ozone NAAQS. Moreover, the monitoring data continue to show attainment to date.

If the State's monitoring data demonstrates a valid violation of the NAAQS before the direct final action is effective, the direct final approval of the redesignation will be withdrawn and a proposed disapproval substituted for the direct final approval.

(2) Section 110 Requirements

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA has reviewed the SIP to ensure that it contains all measures that were due under the CAA prior to or at the time the State submitted its redesignation request, as set forth in EPA policy. EPA interprets section 107(d)(3)(E)(v) of the CAA to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the same time as the submission of a complete redesignation request. In this case, the date of submission of a complete redesignation request is April 23, 1993. Requirements of the CAA that come due subsequently continue to be applicable to the area at later dates (see section 175A(c)) and, if redesignation of any of the areas is disapproved, the State remains obligated to fulfill those requirements. These requirements are discussed in the following EPA documents: "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992; "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992; and "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

EPA has analyzed the Louisiana SIP and determined that it is consistent with the requirements of amended section 110(a)(2). The SIP contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications to existing ones; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and requires stationary source emissions monitoring and reporting.

(3) Part D Requirements

Before the New Orleans CMSA can be redesignated to attainment, the Louisiana SIP must have fulfilled the applicable requirements of part D of the CAA. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a)(1). Since the New Orleans CMSA is considered nonclassifiable, the State is only required to meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176. As long as EPA did not determine that any of the pertinent section 172(c) requirements were applicable prior to the submission of these redesignation requests in 1993, none of these requirements are applicable for purposes of this redesignation action.

Section 176(c) of the CAA requires States to revise their SIP's to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity").

Section 176 further provides that the conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the implementation of title I informed the State that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)). The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62118) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A.

Pursuant to 40 CFR 51.396 of the transportation conformity rule and 40 CFR 51.851 of the general conformity rule, the State of Louisiana was required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Louisiana was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Louisiana submitted both its transportation and general conformity rules to EPA on November 10, 1994. As these requirements did not come due until after the original submission date of this redesignation request, these conformity rule submissions need not be approved prior to taking action on this redesignation request.

(3) Fully Approved SIP

The EPA finds that the State of Louisiana has a fully approved SIP for the New Orleans CMSA for the purposes of redesignating the area to attainment for ozone.

(4) Permanent and Enforceable Measures

Under the CAA, EPA approved Louisiana's SIP control strategy for the New Orleans CMSA, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. Several Federal and Statewide rules are in place which have significantly improved the ambient air quality in this area. Existing Federal programs, such as the Federal Motor Vehicle Control Program and the Reid Vapor Pressure limit of 7.8 pounds per square inch for gasoline, will not be lifted upon redesignation. These programs will counteract emissions growth as the area experiences economic growth over the life of their maintenance plans.

The State adopted volatile organic compound (VOC) rules such as oil/water separation; degreasing and solvent clean-up processes; surface coating rules for large appliances, furniture, coils, paper, fabric, vinyl, cans, miscellaneous metal parts and products, and factory surface coating of flat wood paneling; solvent-using rules for graphic arts; and miscellaneous industrial source rules such as for cutback asphalt. The applicable reasonably available control technology (RACT) rules will also remain in place. In addition, the State permits program, the Prevention of Significant Deterioration permits program, and the Federal Operating

Permits program will help counteract emissions growth.

The EPA finds that the combination of existing EPA-approved SIP and Federal measures ensure the permanence and enforceability of reductions in ambient ozone levels that have allowed the area to attain the NAAQS.

(5) Fully Approved Maintenance Plan Under Section 175A

In today's document, EPA is approving the State's maintenance plan for the New Orleans CMSA because EPA finds that the LDEQ's submittal meets the requirements of section 175A. Thus, the area will have a fully approved maintenance plan in accordance with section 175A as of the effective date of this redesignation. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Regional Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality

problems. Each of the section 175A plan requirements is discussed below.

Demonstration of Maintenance

The requirements for an area to redesignate to attainment are discussed in the memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memo). One aspect of a complete maintenance demonstration discussed in the Calcagni memo is the requirement to develop an emissions inventory from one of the three years during which the area has demonstrated attainment. This inventory should include VOC's, oxides of nitrogen (NO_x), and CO emissions from the area in tons per day measurements.

Attainment Inventory

The LDEQ adopted a comprehensive inventory of VOC, NO_x, and CO emissions from area, stationary, and mobile sources using 1990 as the base year to demonstrate maintenance of the ozone NAAQS. EPA has determined that 1990 is an appropriate year on which to base attainment level emissions because EPA policy allows States to select any one of the three years in the attainment period as the attainment year inventory. The State's submittal contains the detailed inventory data and summary by source category.

The LDEQ provided the stationary source estimates for each company meeting the emissions criteria by requiring the submission of complete emissions inventory questionnaires which had been designed to obtain site-specific data. The LDEQ generated area source emissions for each source category based on EPA's "Procedures for the Preparation of Emissions Inventories for Precursors of Carbon Monoxide and Ozone, Volume I", and the EPA document entitled "Compilation of Air Pollutant Emission Factors". The nonroad mobile source inventory was developed using methodology recommended in EPA's "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources". Additional data were provided with reference to an EPA-sponsored study entitled "Nonroad Engine Emission Inventories for CO and Ozone Nonattainment Boundaries." Onroad emissions of VOC, NO_x, and CO were calculated on a county-wide basis using EPA's MOBILE5a computer model. Growth projections were derived from the United States Department of Commerce, Bureau of Economic Analysis statistics. These projections represent growth for Louisiana for each emission source category.

The following table is a summary of the revised average peak ozone season weekday VOC and NO_x emissions for the major anthropogenic source categories for the 1990 attainment year inventory.

	Tons per day			
	1990	1995	2000	2005
Jefferson Parish				
Point Source CO	4.64	4.79	4.97	5.04
Point Source VOC	6.28	6.41	6.54	6.62
Point Source NO _x	55.12	57.74	60.63	62.07
Area Source CO	2.78	2.85	2.84	2.85
Area Source VOC	25.85	26.41	26.33	26.42
Area Source NO _x	1.75	1.79	1.78	1.79
Nonroad Source CO	118.08	120.60	120.27	120.67
Nonroad Source VOC	13.58	13.87	13.83	13.88
Nonroad Source NO _x	13.63	13.92	13.88	13.93
Onroad Source CO	255.87	179.03	147.19	132.46
Onroad Source VOC	31.47	21.34	18.08	16.14
Onroad Source NO _x	27.90	24.61	21.53	19.35
Total CO	381.37	307.26	275.26	258.45
Total VOC	77.18	68.02	64.78	63.05
Total NO _x	98.41	98.06	97.82	97.14
Orleans Parish				
Point Source CO	2.04	2.10	2.18	2.21
Point Source VOC .....	.47	.47	.48	.47
Point Source NO _x	22.30	23.32	24.38	24.89
Area Source CO	3.24	3.11	3.27	3.30
Area Source VOC	23.21	22.25	23.42	23.67
Area Source NO _x	1.38	1.32	1.39	1.40
Nonroad Source CO	130.89	125.53	132.11	133.48

	Tons per day			
	1990	1995	2000	2005
Nonroad Source VOC	15.05	14.43	15.19	15.35
Nonroad Source NO _x	15.05	14.43	15.19	15.35
Onroad Source CO	262.15	192.22	157.38	139.77
Onroad Source VOC	32.16	22.90	19.50	17.29
Onroad Source NO _x	30.01	27.65	24.08	21.44
Total CO	398.32	322.96	294.94	278.75
Total VOC	70.89	60.06	58.59	56.78
Total NO _x	68.79	66.72	65.04	63.08

St. Bernard Parish

Point Source CO	53.80	53.76	54.28	53.21
Point Source VOC	16.35	16.32	16.47	16.16
Point Source NO _x	29.44	29.44	29.79	29.46
Area Source CO .....	.73	.78	.76	.75
Area Source VOC	3.43	3.59	3.52	3.49
Area Source NO _x .....	.27	.29	.28	.28
Nonroad Source CO	17.55	18.41	18.00	17.88
Nonroad Source VOC	2.02	2.12	2.07	2.06
Nonroad Source NO _x	2.02	2.12	2.08	2.06
Onroad Source CO	30.18	21.04	17.37	16.04
Onroad Source VOC	3.69	2.50	2.08	1.88
Onroad Source NO _x	2.82	2.45	2.16	1.99
Total CO	102.26	93.99	90.41	87.88
Total VOC	25.49	24.53	24.15	23.59
Total NO _x	34.56	34.30	34.31	33.79

St. Charles Parish

Point Source CO	10.68	10.79	11.01	10.98
Point Source VOC	30.44	30.19	30.23	29.73
Point Source NO _x	118.05	120.85	124.57	125.41
Area Source CO .....	.29	.31	.30	.75
Area Source VOC	2.14	2.29	2.23	2.21
Area Source NO _x .....	.15	.16	.16	.16
Nonroad Source CO	11.18	11.95	11.64	11.57
Nonroad Source VOC	1.28	1.38	1.34	1.33
Nonroad Source NO _x	1.29	1.38	1.34	1.33
Onroad Source CO	46.85	35.80	29.56	26.60
Onroad Source VOC	5.42	3.99	3.55	3.35
Onroad Source NO _x	7.75	7.08	6.49	6.22
Total CO	69.00	59	52.51	51.42
Total VOC	39.28	37.84	37.53	36.63
Total NO _x	127.24	129.47	131.55	133.11

It should be noted that although the NO_x projections for St. Charles Parish increase by 2,143 tons per year in 2005, the overall four parish NO_x inventory decreases by 682 tons per year overall. The attainment inventories submitted by the LDEQ for Jefferson, Orleans, St. Bernard, and St. Charles Parishes meet the redesignation requirements as discussed in the Calcagni memo. Therefore, the EPA is today approving the emissions inventory component of the maintenance plan for these parishes.

Continued Attainment

Continued attainment of the ozone NAAQS in the New Orleans CMSA will depend, in part, on the Federal and State control measures discussed previously. However, the ambient air monitoring sites will remain active at their present locations during the

maintenance period. These data will be quality assured and submitted to the Aerometric Information and Retrieval System (AIRS) on a monthly basis. Certain monitored ozone levels will provide the basis for triggering measures contained in the contingency plans. Additionally, as discussed above, during year 8 of the maintenance period, the LDEQ is required to submit a revised plan to provide for maintenance of the ozone standard in these parishes for the next ten years.

Contingency Plan

Section 175A of the CAA requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area to attainment. The contingency plan should clearly identify the measures to

be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify specific triggers which will be used to determine when the measures need to be implemented.

The LDEQ has selected VOC offsets and new Control Techniques Guidelines (CTG) or Alternative Control Technology (ACT) rule implementation as its contingency measures. At any time during the maintenance period, if any one of the four parishes included in the maintenance area record a second exceedance of the ozone NAAQS within any consecutive three-year period (a level below the NAAQS), the LDEQ will promulgate a rule change to implement VOC offsets in that parish. This rule will be submitted to EPA within 9 months of the second exceedance. Implementation

will occur if a third exceedance of the ozone standard is recorded during any consecutive 3 year period.

Should any parish experience a third exceedance of the ozone standard during any consecutive 3 year period, the LDEQ will promulgate a rule revision to place new CTG and ACT VOC rules (where applicable) in that parish. These rules will be submitted to the EPA within 9 months of the third exceedance. Implementation will occur if a violation of the ozone standard is recorded during any consecutive 3 year period. These contingency measures and schedules for implementation satisfy the requirements of section 175A(d).

Final Action

The EPA has evaluated the State's redesignation request for the New Orleans CMSA for consistency with the CAA, EPA regulations, and EPA policy. The EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the ozone standard. In addition, the EPA has determined that the redesignation request meets the requirements and policy set forth in the General Preamble and policy memorandum discussed in this notice for area redesignations, and today is approving Louisiana's redesignation request for the New Orleans CMSA.

The EPA is publishing this action without prior proposal because the EPA 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 December 1, 1995, unless adverse or critical comments are postmarked by November 1, 1995. If the EPA receives such comments, 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 then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received on this action, the public is advised that this action will be effective December 1, 1995.

The EPA has reviewed this redesignation request for conformance with the provisions of the CAA and has determined that this action conforms to those requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, under 5 U.S.C. 605(b), the EPA may certify that the rule will not have a significant impact on a substantial number of small entities (see 46 FR 8709). Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 1, 1995. Filing a petition for reconsideration of this final rule by the Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA from basing its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2). The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in

association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The rules and commitments approved in this action may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, EPA has determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Table 3 SIP Actions Exempt From OMB Review

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

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Area designations, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, National Parks, Reporting and recordkeeping, Ozone, Volatile organic compounds, Wilderness areas.

Dated: September 22, 1995.

Allyn M. Davis,

Acting Regional Administrator (6RA).

40 CFR Parts 52 and 81 are 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 T—Louisiana

2. Section 52.975 is amended by adding paragraph (c) to read as follows:

§ 52.975 Redesignations and maintenance plans: Ozone.

* * * * *

(c) Approval—The Louisiana Department of Environmental Quality (LDEQ) submitted a redesignation request and maintenance plan for the New Orleans CMSA on April 23, 1993.

The EPA deemed this request complete on September 10, 1993. Several approvability issues existed, however. The LDEQ addressed these approvability issues in a supplemental ozone redesignation request and revised maintenance plan. This supplemental submittal was received on October 14, 1994. The redesignation request and maintenance plans meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Louisiana ozone State Implementation Plan for Jefferson, Orleans, St. Bernard, and St. Charles Parishes on December 1, 1995.

Parishes. The EPA therefore approved the request for redesignation to attainment with respect to ozone for Jefferson, Orleans, St. Bernard, and St. Charles Parishes on December 1, 1995.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.319, the ozone table is amended by revising the entries for Jefferson, Orleans, St. Bernard, and St. Charles Parishes to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—OZONE

Designated area	Designation		Classification	
	Date	Type	Date ¹	Type
*	*	*	*	*
Jefferson Parish	December 1, 1995 ..	Attainment.		
Orleans Parish	December 1, 1995 ..	Attainment.		
St. Bernard Parish	December 1, 1995 ..	Attainment.		
St. Charles Parish	December 1, 1995 ..	Attainment.		
*	*	*	*	*

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

* * * * *

[FR Doc. 95-24413 Filed 9-29-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[MI39-02-7202; FRL-5307-7]

Designation of Areas for Air Quality Planning Purposes; Correction of Designation of Nonclassified Ozone Nonattainment Areas; State of Michigan: Withdrawal of Direct Final Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final action.

SUMMARY: On August 8, 1995, the EPA published a proposed rule (60 FR 40338) and a direct final rule (60 FR 40297) announcing the USEPA decision to correct the ozone designations for the Allegan County, Barry County, Battle Creek (Calhoun County), Benton Harbor (Berrien County), Branch County, Cass County, Gratiot County, Hillsdale County, Huron County, Ionia County, Jackson (Jackson County), Kalamazoo (Kalamazoo County), Lapeer County,

Lenawee County, Montcalm (Montcalm County), Sanilac County, Shiawassee County, St. Joseph County, Tuscola County, and Van Buren County nonattainment nonclassified/incomplete data areas and the Lansing-East Lansing (Clinton County, Eaton County, and Ingham County) nonattainment nonclassified/transitional area pursuant to section 110(k)(6) of the Clean Air Act. The EPA is withdrawing the final rule due to adverse comments and will summarize and address all public comments received in a subsequent final rule (based upon the proposed rule cited above).

EFFECTIVE DATE: This withdrawal of the direct final action will be effective October 2, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Jacqueline Nwia, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard,

Chicago, Illinois, 60604. Telephone: (312) 886-6081.

List of Subjects in 40 CFR Part 81

Air pollution control, Hydrocarbons, National parks, Ozone, Volatile organic compounds, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 25, 1995.

Carol M. Browner,
Administrator.

[FR Doc. 95-24452 Filed 9-29-95; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY**44 CFR Part 64**

[Docket No. FEMA-7627]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program