NEW JERSEY—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Warren County.				

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

[FR Doc. 95–29818 Filed 12–6–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[FL63–1–7143a; FRL–5340–7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Florida Change in National Policy Regarding Applicability of Conformity Requirements to Redesignation Requests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On February 7, 1995, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a maintenance plan and a request to redesignate the Tampa area from marginal nonattainment to attainment for ozone (O_3). The Tampa O_3 nonattainment area consists of Hillsborough and Pinellas Counties. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data are available to warrant such revisions and the CAA redesignation requirements are satisfied. In this action, EPA is approving Florida's request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is also approving the 1990 base year emission inventory for the Tampa area.

DATES: This action will be effective February 5, 1996, unless adverse or critical comments are received by January 8, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to Joey LeVasseur, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

Hillsborough County Environmental Protection Commission, 1410 North 21st Street, Tampa, Florida 33605.

Pinellas County Department of Environmental Management, Division of Air Quality, 300 S. Garden Avenue, Clearwater, Florida 34616.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 ext.4215. Reference file FL63–1–7143a.

SUPPLEMENTARY INFORMATION: The Clean Air Act, as amended in 1977 (1977 Act) required areas that were designated nonattainment based on a failure to meet the O_3 national ambient air quality standard (NAAQS) to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. The Tampa-St. Petersburg-Clearwater area (Tampa), comprised of Hillsborough and Pinellas Counties, was designated under section 107 of the 1977 Act as nonattainment with respect to the O_3 NAAQS on March 3, 1978. [43 FR 8964, 40 CFR 81.310] In accordance with section 110 of the 1977 Act, the State submitted a part D O_3 SIP on April 30, 1979, which was supplemented on August 27, 1979, and January 23, 1980, which EPA conditionally approved on March 18, 1980, and fully approved on May 14, 1981, as meeting the requirements of section 110 and part D of the 1977 Act.

On November 15, 1990, the CAA Amendments of 1990 were enacted (1990 Amendments). [Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q] The nonattainment designation of Tampa was continued by operation of law pursuant to section 107(d)(1)(C)(i) of the 1990 Amendments. Furthermore, it was classified as marginal for O_3 according to section 181(a)(1). (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.310).

Tampa more recently has ambient monitoring data that show no violations of the O_3 NAAQS, during the period 1990 through 1994. In addition, there have been no exceedances reported for the 1995 O_3 season. Therefore, in an effort to comply with the 1990 Amendments and to ensure continued attainment of the NAAQS, Florida submitted an O_3 maintenance SIP for the Tampa area on February 7, 1995, and also requested redesignation of the area to attainment with respect to the O_3 NAAQS.

The 1990 Amendments revised section 107(d)(1)(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 relevant 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.

The Florida redesignation request for the Tampa area meets the five requirements of section 107(d)(3)(E), noted above. The following is a brief description of how the State has fulfilled each of these requirements. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

1. Attainment of the O_3 NAAQS

The Florida request is based on an analysis of quality assured O_3 air quality data which is relevant to the maintenance plan and to the redesignation request. The ambient O_3 data for the calendar years 1990 through

1992 shows an exceedance rate of less than 1.0 per year of the O_3 NAAQS in the Tampa area. (See 40 CFR 50.9 and Appendix H). In addition, there have been no ambient air exceedances in 1993, 1994 or to date in 1995 for O_3. Because the Tampa area has complete quality-assured data showing no violations of the standard over the most recent consecutive three calendar year period, the Tampa area has met the first statutory criterion of attainment of the O_3 NAAQS. Florida has committed to continue monitoring in this area in accordance with 40 CFR part 58.

2. Meeting Applicable Requirements of Section 110 and Part D

On May 14, 1981, EPA fully approved Florida's SIP for the Tampa area as meeting the requirements of section 110(a)(2) and part D of the 1977 Act (46 FR 26640). The 1990 Amendments, however, modified section 110(a)(2) and, under part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, 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 1990 Amendments prior to or at the time the State submitted its redesignation request. EPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation request to be approved, the state has met all requirements that applied to the subject area prior to the submission of a complete redesignation request. Requirements of the CAA that come due subsequently continue to be applicable at those later dates (see section 175A(c)) and, if the redesignation is disapproved, the state remains obligated to fulfill those requirements.

A. Section 110 Requirements

Although section 110 was amended by the 1990 Amendments, the Tampa SIP meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. As to those requirements that were amended, (see 57 FR 27936 and 23939, June 23, 1993), many are duplicative of other requirements of the CAA. EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2).

B. Part D Requirements

Before Tampa may be redesignated to attainment, it also must have fulfilled the applicable requirements of part D. 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). The Tampa area was classified as marginal (See 56 FR 56694, codified at 40 CFR 81.530). Therefore, in order to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and is subject to requirements of subpart 2 of part D.

B.1. Subpart 1 of part D—Section 172(c) Plan Provisions

Under section 172(b), the Administrator established that States containing nonattainment areas shall submit a plan or plan revision meeting the applicable requirements of section 172(c) no later than three years after an area is designated as nonattainment, i.e., unless EPA establishes an earlier date. EPA had not determined that these requirements were applicable to classified O_3 nonattainment areas on or before February 7, 1995, the date that the State of Florida submitted a complete redesignation request for the Tampa area. Therefore, the State was not required to meet these requirements for purposes of redesignation. EPA has determined that the section 172(c)(2) reasonable further progress (RFP) requirement was not applicable to the Tampa redesignation. Also the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures (RACM) beyond what may already be required in the SIP are no longer necessary.

The section 172(c)(3) emissions inventory requirement has been met by the submission and approval (in this action) of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1).

As for the section 172(c)(5) NSR requirement, EPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. See memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment. The rationale for this view is described fully in that memorandum, and is based on the Agency's authority to establish *de minimis* exceptions to statutory requirements. See *Alabama Power Co.* v. *Costle*, 636 F. 2d 323, 360–61 (D.C. Cir. 1979). However, the State of Florida does have a fully approved part D NSR rule.

Finally, for purposes of redesignation, the Tampa SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, EPA believes the SIP satisfies all of those requirements.

B.2. Subpart 1 of Part D—Section 176 Conformity Plan Provisions

Section 176(c) of the CAA requires States to revise their SIPs 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 States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)).

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 Florida is 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, the State of Florida is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by

December 1, 1994. The conformity rules for Florida have not yet been approved.

Although this redesignation request was submitted to EPA after the due dates for the SIP revisions for transportation conformity [58 FR 62188] and general conformity [58 FR 63214] rules, EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment. Therefore, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting State rules does not relieve an area from the obligation to implement conformity requirements.

Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet adopted, EPA believes it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request.

Therefore, with this notice, EPA is modifying its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing an ozone redesignation request. Under this new policy, for the reasons just discussed, EPA believes that the ozone redesignation request for the Tampa area may be approved notwithstanding the lack of submitted and approved state transportation and general conformity rules.

B.3. Subpart 2 of Part D—Section 182(a) Requirements

The CAA was amended on November 15, 1990, Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. EPA was required to classify O_3 nonattainment areas according to the severity of their problem. The Tampa area was designated as marginal O_3 nonattainment (See 40 CFR 81.310). Because this area is marginal, the area must meet section 182(a) of the CAA. EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 182. Below is a summary of how the area has met the requirements of these sections.

(1) Emissions Inventory

The CAA required an inventory of all actual emissions from all sources, as described in section 172(c)(3) by November 15, 1992. On November 16, 1992, FDEP submitted an emission inventory for the Tampa area. This notice is approving the base year inventory for the Tampa area.

(2) Reasonably Available Control Technology (RACT)

To be redesignated, all SIP revisions required by section 182(a)(2)(A) and 182(b)(2) concerning RACT requirements must have been submitted to EPA and fully approved. Florida has met all RACT requirements.

(3) Emissions Statements

Section 182(a)(3) of the CAA required a SIP submission by November 15, 1992, to require stationary sources of NO_X and VOCs to provide statements of actual emissions. Florida submitted an annual emissions statement SIP revision on November 13, 1992. This revision was approved in the Federal Register on August 4, 1994.

3. Fully Approved SIP Under Section 110(k) of the CAA

Based on the approval of provisions under the pre-amended CAA and EPA's prior approval of SIP revisions under the 1990 Amendments, EPA has determined that the Tampa area has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and part D as discussed above.

4. Improvement in Air Quality Due to Permanent and Enforceable Measures

Under the pre-amended CAA, EPA approved the Florida SIP control strategy for the Tampa nonattainment area, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. The control measures to which the emission reductions are attributed are VOC RACT regulations, the Federal Motor Vehicle Control Program (FMVCP), and lower Reid Vapor Pressure (RVP). VOC emissions from stage I sources were reduced by 40% in 1990 due to VOC RACT. The FMVCP reduced VOC emissions from motor vehicles by 14.2% from 1988 to 1990. The reduction in RVP from 10.8 psi in 1988 to 9.0 psi in 1990 has reduced summertime VOC mobile source emissions by 30.8%.

In association with its emission inventory discussed below, the State of Florida has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the VOC emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of existing EPA-approved state and federal measures contribute to the permanence and enforceability of reduction in ambient O_3 levels that have allowed the area to attain the NAAQS.

5. Fully Approved Maintenance Plan Under Section 175A

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 Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment 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. In this notice, EPA is approving the State of Florida's maintenance plan for the Tampa area because EPA finds that Florida's submittal meets the requirements of section 175A.

A. Emissions Inventory—Base Year Inventory

On November 16, 1992, the State of Florida submitted comprehensive inventories of VOC, NO_X, and CO emissions from the Tampa area. The inventories include biogenic, area, stationary, and mobile sources using 1990 as the base year for calculations to demonstrate maintenance. The 1990 inventory is considered representative of attainment conditions because the NAAQS was not violated during 1990. EPA is approving the 1990 base year inventory in this document.

The State submittal contains the detailed inventory data and summaries by county and source category. The comprehensive base year emissions inventory was submitted in the NEDS format. Finally, this inventory was prepared in accordance with EPA guidance. It also contains summary

tables of the base year and projected maintenance year inventories. EPA's TSD contains more in-depth details regarding the base year inventory for the Tampa area.

VOC EMISSIONS INVENTORY SUMMARY

[Tons per day]

	1990	1994	1997	2000	2005
Stationary Point	16.59	24.52	25.16	25.86	26.64
Stationary Area	101.00	104.61	109.44	114.34	120.13
On-Road Mobile	166.12	90.96	87.97	84.73	87.43
Non-Road Mobile	51.41	55.36	57.56	59.76	62.58
Biogenics	97.89	97.89	97.89	97.89	97.89
Total	433.01	373.07	378.02	382.59	394.67

NO_x EMISSIONS INVENTORY SUMMARY

[Tons per day]

	1990	1994	1997	2000	2005
Stationary Point	319.76	336.02	317.83	320.02	338.84
Stationary Area	9.96	10.67	11.08	11.48	12.08
On-Road Mobile	121.47	109.89	114.00	111.80	113.25
Non-Road Mobile	41.60	44.61	47.01	49.40	52.61
Total	492.79	501.19	489.92	492.70	516.78

CO EMISSIONS INVENTORY SUMMARY

[Tons per day]

	1990
Stationary Point	33.49
Stationary Area	16.36
On-Road Mobile	942.60
Non-Road Mobile	365.54
Total	1357.99

B. Demonstration of Maintenance—Projected Inventories

Total VOC and NO_X emissions were projected from 1990 base year out to 2005, with interim years of 1994, 1997, and 2000. These projected inventories were prepared in accordance with EPA guidance. The projections show that VOC emissions are expected to decrease 38.34 tons or 8.85% from the level of the base year inventory during this time period. The NO_X emissions do show a slight increase of 23.99 tons or 4.87% from 1990 to 2005, but the State has demonstrated as discussed below that the projected increases will not adversely affect the maintenance of the O_3 NAAQS.

The Empirical Kinetics Modeling Approach (EKMA) was used to demonstrate the impact of NO_X emission increases on maximum O_3 formation. The EKMA analysis showed that the projected future mix of emissions will not cause a violation of the NAAQS. EPA EKMA guidance documents were used in developing model inputs. The model was run using 1988 meteorological conditions and monitored O_3, NO_X and nonmethane organic compound (NMOC) concentration data for May 16, 1988, June 3, 1988, and June 23, 1988, and was run in the EKMA calculate mode. These days had observed O_3 maximum concentrations of 0.118, 0.113, and 0.115 parts per million (ppm) respectively. The monitored NMOC/NO_X ratios of 6.876, 8.298, and 5.180 were used as input. The EKMA predicted a minimum decrease in O_3 concentration of 1.5% from 1990 to 2005.

The model output indicated a continual decrease in the maximum model-predicted O_3 with each increase in NO_X emissions over the 1990 base case inventory. Additionally, the modeling indicated that the mix of emissions as indicated in the 2005 inventory (11.4% VOC reductions and 4.8% NO_X increase over the 1990 inventory) produced lower O_3 levels than the base case. Thus, the analysis indicates that, not withstanding the projected increase in NO_X emissions, the Tampa area should continue to maintain the standard throughout the maintenance period.

C. Contingency Plan

The level of VOC emissions in the Tampa area will largely determine its ability to stay in compliance with the O_3 NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, Florida has provided contingency measures with a schedule for implementation in the event of a future O_3 air quality problem. In the case of a violation of the O_3 NAAQS, the plan contains a contingency to implement additional control measures such as reinstatement of NSR, less volatile or reformulated gasoline, expansion of control strategies to adjacent counties for VOC and/or NO_X and to new CTG categories, or an

enhanced vehicle emissions inspection program. A complete description of these contingency measures and their triggers can be found in the State's submittal. EPA finds that the contingency measures provided in the State submittal meet the requirements of section 175A(d) of the CAA.

D. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

Final Action

In this action, EPA is approving the Tampa area O_3 maintenance plan submitted on February 7, 1995, because it meets the requirements of section 175A. In addition, the Agency is approving the request and redesignating the Tampa nonattainment area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also approving the 1990 base year emissions inventory for the Tampa area submitted on November 16, 1992. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective February 5, 1996, unless, within 30 days of its publication, adverse or critical comments are received. 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, the public is advised that this action will be effective February 5, 1996.

The O_3 SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the O_3 NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the VOC or NOX emission limitations and restrictions contained in the approved O_3 SIP. Changes to O_3 SIP VOC regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation [section 173(b) of the CAA] and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the CAA.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 5, 1996. Filing a petition for reconsideration by the Administrator of this final rule 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, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2).)

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

Nothing in this action shall be construed as permitting or 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.

Under the Regulatory Flexibility Act, 5 U.S.C. section 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 sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic 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. The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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 to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. sections 7410 (a)(2) and 7410 (k)(3).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

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 state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen Dioxide, Ozone.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 19, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520, is amended by adding paragraph (c)(89) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(89) The maintenance plan for Tampa, Florida, submitted by the Florida Department of Environmental Protection on February 7, 1995.

(i) Incorporation by reference. Tampa Redesignation Request and Attainment/Maintenance Plan for the Tampa Bay Florida Ozone Nonattainment Area including Emissions Inventory Summary and Projections adopted on November 16, 1994.

(ii) Other material. None.

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

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

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.310 the ''Florida-Ozone'' table is amended by removing the entry for ''Tampa-St. Petersburg-Clearwater Area;'' and by adding entries for Hillsborough and Pinellas Counties in alphabetical order; and by revising the entry ''Rest of State'' to read ''Statewide.''

§ 81.310 Florida.

* * * * *

FLORIDA-OZONE

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/ Attainment	.....	.....
* * * *	*	* *		
Hillsborough County	February 5, 1996.	.....	.....	.....
* * * *	*	* *		
Pinellas County	February 5, 1996.	.....	.....	.....
* * * *	*	* *		

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

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[FR Doc. 95–29817 Filed 12–6–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD–FRL–5341–7]

Clean Air Act Interim Approval of Operating Permits Program; San Diego Air Pollution Control District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is promulgating direct final interim approval of the title V operating permits program submitted by the California Air Resources Board, on behalf of the San Diego Air Pollution Control District (San Diego or District), for the purpose of complying with federal requirements for an approvable state program to issue operating permits to all major stationary sources and to certain other sources. In addition, today's action promulgates direct final approval of San Diego's mechanism for receiving delegation of section 112 standards as promulgated.

DATES: This direct final rule is effective on February 5, 1996 unless adverse or critical comments are received by January 8, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Copies of the District's submittal and other supporting information used in developing this direct final rule are available for public inspection (docket number CA SD–95–1–OPS) during normal business hours at the following location: Operating Permits Section (A–5–2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (telephone 415/744–1249), Operating Permits Section (A–5–2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 (part 70), require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years