

adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice should do so at this time.

**DATES:** Comments must be received in writing on or before March 20, 1997.

**ADDRESSES:** Comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch, United States Environmental Protection Agency, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604.

Copies of the State's submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Alvin Choi, Environmental Engineer, Permits and Grants Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3507.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: December 12, 1996.

**Valdas V. Adamkus,**  
*Regional Administrator.*

[FR Doc. 97-3863 Filed 2-14-97; 8:45 am]  
BILLING CODE 6560-50-P

#### 40 CFR Part 52

[TN-178-1-9707b; FRL-5683-1]

#### Approval and Promulgation of Implementation Plans; Hamilton County, Tennessee

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Tennessee on behalf of the Chattanooga-Hamilton County Air Pollution Control Bureau (CHCAPCB) for the purpose of establishing a Federally enforceable state operating permit (FESOP) program. In order to extend the Federal enforceability of CHCAPCB's FESOP to hazardous air pollutants (HAP), EPA is also proposing approval of the

CHCAPCB's FESOP regulations pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA).

In the Final Rules Section of this **Federal Register**, EPA is approving CHCAPCB's SIP revision as a direct final rule without prior proposal because the Agency views this as noncontroversial revision amendments and anticipates no adverse comments. A detailed rationale for the approvals is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this approval action. Any parties interested in commenting on this action should do so at this time.

**DATES:** To be considered, comments must be received by March 20, 1997.

**ADDRESSES:** Written comments should be addressed to: Kelly Fortin, Air & Radiation Technology Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 100 Alabama Street SW., Atlanta, Georgia 30303.

Copies of the material submitted by the State of Tennessee on behalf of the CHCAPCB may be examined during normal business hours at the following locations:

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 & Radiation Technology Branch, Atlanta Federal Center, 100 Alabama Street SW., Atlanta, Georgia 30303.

Tennessee Department of the Environment and Conservation, L&C Annex, 401 Church Street, Nashville, Tennessee, 37243-1531.

Chattanooga-Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37407-2495.

**FOR FURTHER INFORMATION CONTACT:** Kelly Fortin, Air & Radiation Technology Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 100 Alabama Street SW., Atlanta, Georgia 30303, 404-562-9117. Reference file TN178-1.

**SUPPLEMENTARY INFORMATION:** For additional information, refer to the direct final rule which is published in the rules section of this **Federal Register**.

Dated: January 23, 1997.

**A. Stanley Meiburg,**

*Acting Regional Administrator.*

[FR Doc. 97-3866 Filed 2-14-97; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Parts 52 and 81

[OH78-2; FRL-5689-N]

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

**AGENCY:** Environmental Protection Agency (USEPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Ohio Environmental Protection Agency (OEPA) has requested the redesignation of the Ohio portion of the Cincinnati-Hamilton area consisting of Hamilton, Clermont, Butler, and Warren Counties from moderate nonattainment to attainment for ozone. The request was received on November 15, 1994. USEPA proposed to approve the redesignation request on May 5, 1995. However, during July of 1995 an ozone monitor in the area recorded another exceedance of the ozone standard resulting in a violation of the standard. As a result of the violation the area is no longer attaining the ozone air quality standard and USEPA is proposing to disapprove the redesignation request for the area because it has not met all of the requirements for redesignation specified under section 107(d)(3)(E), of the Clean Air Act.

The Cincinnati-Hamilton moderate nonattainment area also includes the Kentucky counties of Boone, Campbell, and Kenton. On September 27, 1996, USEPA disapproved the redesignation request for the Kentucky portion of the Cincinnati-Hamilton moderate ozone nonattainment area.

**DATES:** Comments on this redesignation and on the proposed USEPA action must be received by March 20, 1997.

**ADDRESSES:** Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other information are available for inspection during normal business

hours at the following location: Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** William Jones, Environmental Scientist, Air Programs Branch, Regulation Development Section (AR-18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6058.

**SUPPLEMENTARY INFORMATION:**

**I. Background Summary**

The OEPA has requested the redesignation of the Ohio portion of the Cincinnati-Hamilton Area (consisting of the counties of Hamilton, Butler, Clermont and Warren) from nonattainment to attainment for ozone.

Under Section 107(d) of the 1977 amended Clean Air Act (CAA), the USEPA promulgated the ozone attainment status for each geographic area of the country. All counties in the Cincinnati-Hamilton OH-KY area were designated as an ozone nonattainment area in March 1978 (43 FR 8962). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pursuant to Section 107(d)(4)(A), Butler, Clermont, Hamilton, and Warren Counties, along with the Kentucky counties of Boone, Campbell, and Kenton were designated as the Cincinnati-Hamilton moderate ozone nonattainment area, as a result of monitored violations of the ozone National Ambient Air Quality Standard (NAAQS) during the 1986-1988 time frame (56 FR 56694, November 6, 1991). A review of the redesignation request

for the Ohio portion of the Cincinnati-Hamilton area was provided in a proposed rulemaking dated May 5, 1995 (60 FR 22337). To the extent that any comments received on the May 5, 1995, proposed rulemaking are relevant to this proposed rulemaking, they will be addressed in any final rulemaking on this action.

**II. Redesignation Review Criteria**

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, Section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the National Ambient Air Quality Standard (NAAQS); (ii) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable state implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of Section 175(A); and (v) The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

The USEPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992), supplemented at 57 FR 18070 (April 28, 1992). The primary memorandum

providing further guidance with respect to section 107(d)(3)(E) of the amended Act is dated September 4, 1992, and issued by the Director, Air Quality Management Division, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment (Calcagni Memorandum).

**III. Analysis of Cincinnati Area Redesignation Request**

For ozone, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and Appendix H, based on three complete, consecutive calendar years of quality assured monitoring data. A violation of the NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1.05 at a monitoring site. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is 0.125 parts per million (ppm) or higher. The data should be collected and quality-assured in accordance with 40 CFR 58, and recorded in the Aerometric Information Retrieval System (AIRS). The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The OEPA submitted ozone monitoring data for the April through October ozone season from 1976 to 1994. In addition USEPA has reviewed the most recent ambient air quality monitoring data that is recorded in USEPA's AIRS. The table below summarizes the air quality data from 1994-1996.

TABLE 1.—PEAK 1-HOUR OZONE CONCENTRATIONS IN THE CINCINNATI-HAMILTON AREA 1994 TO 1996

Site	County	Year	Exceedances measured	Expected exceedances
Oxford	Butler	1994	0	0.0
Middletown	Butler	1994	0	0.0
Middletown	Butler	1995	2	2.0
Middletown	Butler	1996	1	1.0
Hamilton	Butler	1994	0	0.0
Hamilton	Butler	1995	1	1.0
Hamilton	Butler	1996	0	0.0
4430 SR 222	Clermont	1994	1	1.0
4430 SR 222	Clermont	1995	1	1.0
4430 SR 222	Clermont	1996	0	0.0
11590 Grooms Rd	Hamilton	1994	0	0.0
11590 Grooms Rd	Hamilton	1995	0	0.0
11590 Grooms Rd	Hamilton	1996	0	0.0
6950 Ripple Road	Hamilton	1994	0	0.0
6950 Ripple Road	Hamilton	1995	1	1.0
6950 Ripple Road	Hamilton	1996	0	0.0
Cincinnati	Hamilton	1994	0	0.0
Cincinnati	Hamilton	1995	1	1.0
Cincinnati	Hamilton	1996	0	0.0
Lebanon	Warren	1994	2	2.0
Lebanon	Warren	1995	2	2.0

TABLE 1.—PEAK 1-HOUR OZONE CONCENTRATIONS IN THE CINCINNATI-HAMILTON AREA 1994 TO 1996—Continued

Site	County	Year	Exceedances measured	Expected exceedances
Lebanon .....	Warren .....	1996 .....	0	0.0
KY 338 .....	Boone .....	1994 .....	0	0.0
KY 338 .....	Boone .....	1995 .....	0	0.0
KY 338 .....	Boone .....	1996 .....	0	0.0
Dayton .....	Campbell .....	1994 .....	0	0.0
Dayton .....	Campbell .....	1995 .....	0	0.0
Dayton .....	Campbell .....	1996 .....	1	1.0
Covington .....	Kenton .....	1994 .....	0	0.0
Covington .....	Kenton .....	1995 .....	1	1.0
Covington .....	Kenton .....	1996 .....	1	1.0

To demonstrate monitored attainment with the standard, the OEPA submitted ozone air quality data for the years 1992 through 1994. This data has been quality assured and is recorded in AIRS. During the 1994 to 1996 time period, the Lebanon monitor recorded a total of 4.0 expected exceedances. This averages out to 1.33 average expected exceedances per year and as a result is a violation of the ozone standard.

All five of the redesignation criteria given under section 107(d)(3)(E) of the CAA must be satisfied in order for USEPA to redesignate an area from nonattainment to attainment. Under the first criterion, the Administrator of USEPA is prohibited from redesignating an area to attainment when that area has not attained the NAAQS. Furthermore, section 107(d)(1)(A) defines a nonattainment area as "any area that does not meet" NAAQS and an attainment area as "any area \* \* \* that meets the" NAAQS. Consequently, if a violation occurs prior to USEPA's final action, the area is no longer in attainment and USEPA cannot redesignate the area to attainment status because, at the time of that action, the area would not meet the definition of an attainment area under section 107.

At the time of the OEPA's redesignation submittal in 1994, the Cincinnati-Hamilton moderate nonattainment area appeared to have attained the NAAQS, based on air quality data monitored from 1992 through 1994. However, during USEPA's review of the public comments received on the proposal, ambient air quality data indicated that the area had registered a violation of the ozone NAAQS in 1995. This ambient data has been quality assured according to established procedures for validating such monitoring data. As a result, the Cincinnati-Hamilton area does not meet the statutory criterion for redesignation to attainment of the ozone NAAQS found in section 107(d)(3)(E)(i) of the CAA.

USEPA notes that it has previously disapproved redesignation requests on the basis of violations occurring after the submission of the redesignation request. In particular, USEPA has already disapproved the redesignation request for the Kentucky portion of the Cincinnati-Hamilton nonattainment area on the basis of the same violations that are the basis for this proposal. See 61 FR 50718 (September 27, 1996). See also 61 FR 19193 (May 1, 1996) (disapproval of redesignation request for Pittsburgh, Pennsylvania).

The maintenance plan State Implementation Plan (SIP) revision is not approvable because its demonstration is based on a level of ozone precursor emissions in the ambient air thought to represent an inventory of emissions that would provide for attainment and maintenance. That underlying basis of the maintenance plan's demonstration is no longer valid due to the violation of the NAAQS that occurred during the 1995 ozone season, a season in which the emissions inventory was at or below the level of the emissions inventory in the base year.

#### IV. Proposed Rulemaking Action and Solicitation of Public Comment

The Cincinnati-Hamilton area does not meet the redesignation and maintenance plan requirements of the CAA. Therefore, the USEPA is proposing disapproval of the maintenance plan and the redesignation of the Ohio portion of the Cincinnati moderate ozone nonattainment area, consisting of the counties of Butler, Warren, Clermont, and Hamilton, to attainment for ozone.

Public comments are solicited on USEPA's proposed rulemaking action. Public comments received by March 20, 1997 will be considered in the development of USEPA's final rulemaking action. To the extent that any comments received on the May 5, 1995, proposed approval are relevant to this proposed rulemaking, they will be

addressed in any final rulemaking on this action.

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

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 D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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.

USEPA's disapproval of the State request under Section 110 and subchapter I, Part D of the CAA would not affect any existing requirements applicable to small entities. Any pre-existing federal requirements would remain in place after this disapproval. Moreover, USEPA's disapproval of the submittal would not impose any new Federal requirements. Furthermore, the direct effects of the designation status of a nonattainment area fall on a State, not a small entity. Therefore, USEPA certifies that this proposed disapproval action does not have a significant impact on a substantial number of small entities because it does not remove

existing requirements and impose any new Federal requirements.

USEPA's denial of the State's redesignation request under section 107(d)(3)(E) of the CAA does not affect any existing requirements applicable to small entities nor does it impose new requirements. The area retains its current designation status and continues to be subject to the same statutory requirements. To the extent that the area must adopt regulations, based on its nonattainment status, USEPA will review the effect of those actions on small entities at the time the State submits those regulations. Therefore, the Administrator certifies that any disapproval of the redesignation request will not affect a substantial number of small entities.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, USEPA 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 CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. USEPA has examined whether the rules being disapproved by this action would impose any new requirements. Since such sources are already subject to these regulations under State law, no new requirements would be imposed by a disapproval. Moreover, as this action would merely leave the area with its current designation, it imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, would result from this action, and therefore there will be no significant impact on a substantial number of small entities.

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

##### 40 CFR Part 81

Environmental protection, Air pollution control.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: February 6, 1997.

**Michelle D. Jordan,**

*Acting Regional Administrator.*

[FR Doc. 97-3925 Filed 2-14-97; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 80

[FRL-5689-3]

#### Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Under section 211(k)(6) of the Clean Air Act, as amended (Act), the Administrator of EPA shall require the sale of reformulated gasoline in an ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe upon the application of the governor of the state in which the nonattainment area is located. This action proposes to extend the prohibition set forth in section 211(k)(5) against the sale of conventional (*i.e.*, non-reformulated) gasoline to the Phoenix, Arizona moderate ozone nonattainment area. The Agency is proposing the implementation date of the prohibition described herein to take effect on the effective date of this rule or June 1, 1997, whichever is later, for all persons other than retailers and wholesale purchaser-consumers (*i.e.*, refiners, importers, and distributors). For retailers and wholesale purchaser-consumers, EPA is proposing the implementation of the prohibition described herein to take effect 30 days after the effective date of this rule, or July 1, 1997, whichever is later. As of the implementation date for retailers and wholesale purchaser-consumers, the Phoenix ozone nonattainment area will be a covered area for all purposes in the federal RFG program.

**DATES:** If a public hearing is held on today's proposal, comments must be received by April 10, 1997. If a hearing is not held, comments must be received by March 20, 1997. Please direct all correspondence to the address shown below. The Agency will hold a public hearing on today's proposal if one is requested by February 25, 1997. If a public hearing is held, it will take place on March 11, 1997. To request a hearing, or to find out if and where a hearing will be held, please call Janice Raburn at (202) 233-9000.

**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. A copy should also be sent to Janice Raburn at U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460. A copy should also be sent to EPA Region IX, 75 Hawthorne Street, AIR-2, 17th Floor, San Francisco, CA 94105.

Materials relevant to this notice have been placed in Docket A-97-02. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M-1500 Waterside Mall. Documents may be inspected from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material. An identical docket is also located in EPA's Region IX office in Docket A-AZ-97. The docket is located at 75 Hawthorne Street, AIR-2, 17th Floor, San Francisco, California 94105. Documents may be inspected from 9:00 a.m. to noon and from 1:00-4:00 p.m. A reasonable fee may be charged for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Janice Raburn or Paul Argyropoulos at U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233-9000.

**SUPPLEMENTARY INFORMATION:** A copy of this action is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS) and on the Office of Mobile Sources' World Wide Web site, <http://www.epa.gov/OMSWWW>. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919-541-5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, or 9600 baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

- (M) OMS
- (K) Rulemaking and Reporting
- (3) Fuels
- (9) Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. Today's action will be in the form of a ZIP file and can be identified by the following title: OPTOUT.ZIP. To download this file, type the instructions below and