subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate 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 April 1, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 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 April 1, 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 CAA, 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 state implementation plan. Each request for revision to the state implementation plan 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. 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 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 any small entities affected. 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. § 7410(a)(2) and 7410(k)(3).

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 CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action will impose no new requirements, since 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. Therefore 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 17, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of 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 RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(127) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(127) Revisions to the State of Tennessee Air Pollution Control Regulations submitted by the Tennessee Department of Environment and Conservation on April 18, 1995. These consist of revisions to the process emission standards for new and existing cotton gins. These revised regulations also provide an optional method of using selected controls to demonstrate compliance with the emission standards.

(i) Incorporation by reference.

(A) Tennessee Division of Air Pollution Control Regulations, Chapter 1200–3–7-.08(3) effective July 16, 1990.

(ii) Other material. None.

* * * * *

[FR Doc. 96–1837 Filed 1–30–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OH66–1–6499A, OH76–1–6900A; FRL–5405–4]

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

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving the State of Ohio's State Implementation Plan revision request to redesignate the Canton (Stark County), and Youngstown (Mahoning and Trumbull Counties) marginal ozone nonattainment areas to attainment, and establish ozone standard maintenance plans for these areas. Ground-level ozone, commonly known as smog, is an air pollutant which forms on hot summer days which harmfully affects lung tissue and breathing passages. The redesignation to attainment of the health-based ozone air quality standard is based on a request from the State of Ohio to redesignate this area and approve its maintenance plan, and on the supporting data the State submitted in support of the requests. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change, and a maintenance plan is put in place which is designed to ensure the area maintains ozone air quality standard for the next ten years.

DATES: The ''direct final'' is effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 1, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604. (It is recommended that you telephone William Jones at (312) 886–6058, before visiting the Region 5 Office).

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones at (312) 886–6058.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the pre-amended Clean Air Act (CAA), the United States Environmental Protection Agency (USEPA) promulgated the ozone attainment status for each area of every State. For Ohio, Canton (Stark County), and Youngstown (Mahoning, and Trumbull Counties) were designated as a nonattainment area for ozone, see 43 FR 8962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Pursuant to section 107(d)(1)(C) of the CAA, the Canton and Youngstown areas retained their designation of nonattainment for ozone by operation of law, see 56 FR 56694 (November 6, 1991). At the same time these areas were classified as marginal ozone nonattainment areas based on design values of 0.135 parts per million (ppm) for Canton, and 0.134 ppm for Youngstown. Design values are based upon actual monitoring data collected in the area. A design value is calculated for each monitoring site in the area, with the highest monitor design value being the design value for the area. A design value for each monitor is usually the fourth highest reading during a three year period. Generally, the design value has been set from the years 1987 to 1989. Section 181 of the CAA provides a table establishing classifications for different areas based upon area design values. Areas with design values of 0.121 ppm up to 0.138 ppm are classified as marginal nonattainment. Mercer County, Pennsylvania was also included in the Youngstown-Warren-Sharon marginal ozone nonattainment area, along with Mahoning and Trumbull Counties, Ohio. An ozone redesignation request was made by Ohio for Mahoning and Trumbull Counties, but Pennsylvania has not requested redesignation of Mercer County. In this case it is appropriate to proceed with the redesignation of the Ohio portion of this ozone nonattainment area, because: (1) The entire Youngstown-Warren-Sharon marginal ozone nonattainment area has attained the ozone National Ambient Air Quality Standards (NAAQS); and (2) Ohio's maintenance plan contains triggers that rely on the ozone monitor located in Mercer County, Pennsylvania.

The Ohio Environmental Protection Agency (OEPA) requested that the areas be redesignated in letters dated March 25, 1994, (received on April 5, 1994) and August 15, 1994, (received on August 22, 1994) for Canton and Youngstown, Ohio, respectively. The public hearing portions were transmitted to us in letters from Robert Hodanbosi, Chief of the Division of Air Pollution Control, OEPA, dated August 10, 1994, for Canton, and November 14, 1994, for Youngstown.

The State provided monitoring, emissions data, and other documentation to support its redesignation requests. The review criteria and a review of the requests are provided below.

I. Redesignation Review Criteria

Under the CAA, designations can be changed if sufficient data are available to warrant such change. 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 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 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 175A; and (v) The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

The United States Environmental Protection Agency (USEPA) has provided guidance on processing redesignation requests in the following memoranda and related documents:

1. Inspection/Maintenance Program Requirement—Provisions for Redesignation (60 FR 1735), January 5, 1995.
2. ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.
3. Conformity; General Preamble for Exemption from Nitrogen Oxides Provisions, General Preamble for Future Proposed Rulemakings (59 FR 31238), June 17, 1994.
4. ''Section 182(f) Nitrogen Oxides (NO_x) Exemptions Revised Process and Criteria,'' John S. Seitz, Director, Office of Air Quality Planning and Standards, May 27, 1994.
5. ''Maintenance Plan Requirements for Incomplete/No Data Areas,'' Lydia Wegman, Deputy Director, Office of Air Quality Planning and Standards, May 8, 1994.
6. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.
7. ''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 for Air and Radiation, September 17, 1993.
8. ''Technical Support Document (TSDs) for Redesignating Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993.
9. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992.
10. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992.

11. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

II. Review of the Redesignation Requests

The redesignation requests were reviewed to determine if they meet the criteria for redesignating an area to attainment.

A. The Area Must Have Attained the Ozone NAAQS

For ozone, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with the regulation codified at 40 CFR 50.9, based on the three (3) most recent consecutive calendar years of quality assured monitoring data. A violation occurs when the ozone air quality monitoring data show greater than one (1) average expected exceedance per year. An exceedance occurs when the maximum hourly ozone concentration exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Aerometric Information Retrieval System (AIRS) in order for it to be available to the public for review.

Ambient air quality monitoring data show that these two areas attained the NAAQS for ozone during the 1989 to 1994 time period, and preliminary 1995 ozone monitoring data continues to demonstrate both areas' continued attainment.

The ozone monitoring network for Canton consists of four (4) monitors. In Canton only one (1) exceedance of the ozone standard has been monitored since 1990; it was 0.130 ppm and occurred at the North Canton monitor in 1991. The monitoring network for the Youngstown area consists of four (4) monitors that are located in Mercer, Mahoning, and Trumbull Counties. The Youngstown area has monitored several exceedances since 1990 but is not in violation of the ozone standard. Preliminary monitoring data for 1995 shows only one exceedance at the Mahoning County Monitor, which is the first exceedance at that monitor since 1991. This would not result in a violation.

Data stored in AIRS was used to determine the annual average expected exceedances for the years 1992, 1993, and 1994. Data contained in AIRS have undergone quality assurance review by the State and USEPA. Since the annual average number of expected exceedances for each monitor during the most recent three years is less than 1.0, the Canton and Youngstown areas are attaining the standard.

Summaries of air quality data for Canton, and Youngstown are contained in Tables 1 and 2. The areas are currently meeting the section 107(d)(3)(E)(i) requirement of attaining the ozone NAAQS.

TABLE 1.—PEAK 1-HOUR OZONE CONCENTRATIONS IN THE CANTON AREA 1989 TO 1994

Site	County	Year	Exceedances measured	Expected exceedances
Malone College	Stark	1989	0	0.0
Malone College	Stark	1990	0	0.0
Malone College	Stark	1991	0	0.0
Malone College	Stark	1992	0	0.0
Malone College	Stark	1993	0	0.0
Malone College	Stark	1994	0	0.0
245 W 5th St	Stark	1992	0	0.0
245 W 5th St	Stark	1993	0	0.0
245 W 5th St	Stark	1994	0	0.0
6318 Heminger Av	Stark	1989	0	0.0
6318 Heminger Av	Stark	1990	0	0.0
6318 Heminger Av	Stark	1991	1	1.0
6318 Heminger Av	Stark	1992	0	0.0
6318 Heminger Av	Stark	1993	0	0.0
6318 Heminger Av	Stark	1994	0	0.0
City of Alliance	Stark	1991	0	0.0
City of Alliance	Stark	1992	0	0.0
City of Alliance	Stark	1993	0	0.0
City of Alliance	Stark	1994	0	0.0

TABLE 2.—PEAK 1-HOUR OZONE CONCENTRATIONS IN THE YOUNGSTOWN AREA 1989 TO 1994

Site	County	Year	Exceedances measured	Expected exceedances
9 West Front St	Mahoning	1989	0	0.0
9 West Front St	Mahoning	1990	0	0.0
9 West Front St	Mahoning	1991	1	1.0
9 West Front St	Mahoning	1992	0	0.0
9 West Front St	Mahoning	1993	0	0.0
9 West Front St	Mahoning	1994	0	0.0
Airport	Trumbull	1991	0	0.0
Airport	Trumbull	1992	0	0.0
Airport	Trumbull	1993	0	0.0
Airport	Trumbull	1994	0	0.0
Community Hall	Trumbull	1992	0	0.0
Community Hall	Trumbull	1993	1	1.0
Community Hall	Trumbull	1994	0	0.0
City of Farrell	Mercer	1989	0	0.0
City of Farrell	Mercer	1990	0	0.0
City of Farrell	Mercer	1991	0	0.0

TABLE 2.—PEAK 1-HOUR OZONE CONCENTRATIONS IN THE YOUNGSTOWN AREA 1989 TO 1994—Continued

Site	County	Year	Exceedances measured	Expected exceedances
City of Farrell	Mercer	1992	0	0.0
City of Farrell	Mercer	1993	0	0.0
City of Farrell	Mercer	1994	0	0.0
M. K. Goddard State Park	Mercer	1989	0	0.0
M. K. Goddard State Park	Mercer	1990	0	0.0
M. K. Goddard State Park	Mercer	1991	0	0.0
M. K. Goddard State Park	Mercer	1992	0	0.0

B. The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met all Applicable Requirements Under Section 110 and Part D

Before the Canton and Youngstown areas may be redesignated to attainment for ozone, each area must have fulfilled the applicable requirements of section 110 and part D. USEPA interprets section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that became applicable to the subject area prior to or at the time of the submission of the redesignation request. As the Canton and Youngstown redesignation requests were submitted to USEPA in March and August 1994, requirements that came due prior to these respective times must be met for each request to be approved. Requirements of the CAA that come due subsequent to the submission of the redesignation request continue to be applicable to the area (*see* section 175A(c)) and, if the redesignation is disapproved, the State remains obligated to fulfill those requirements.

1. Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of Title I, Part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the State after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C (PSD) and D (NSR) permit programs, criteria for stationary source emission control measures, monitoring, and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the Ohio SIP was reviewed to ensure that all requirements under the amended Act were satisfied.

2. Part D Requirements

Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). The 1990 Amendments to the CAA reaffirmed the ozone nonattainment status of the Canton and Youngstown areas and classified the areas as marginal. Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—as well as the applicable requirements of subpart 2 of part D that apply to marginal areas such as Canton and Youngstown.

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment under the amended CAA. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the cases of Canton and Youngstown, the State has satisfied all of the section 172(c) requirements necessary for these areas to be redesignated upon the basis of the redesignation requests submitted on March 25, 1994, and August 15, 1994.

In the case of marginal ozone nonattainment areas, the section 172(c)(1) Reasonably Available Control Measures was superseded by section 182(a)(2) Reasonably Available Control Technology (RACT) requirements, which required marginal ozone nonattainment areas that were previously designated nonattainment to submit RACT corrections. See General Preamble for the Implementation of Title I, 57 FR at 13503, and the volatile organic compound (VOC) RACT Fix-up rulemaking published at 58 FR 49458. Thus, for the Canton and Youngstown areas, the VOC RACT fix-up SIP must be fully approved. The VOC RACT fix-up SIP previously submitted by Ohio was given partial approval, partial disapproval, and partial limited approval/limited disapproval. See the Federal Register rulemaking dated May 9, 1994, at 56 FR 23796. However, Ohio made a subsequent submittal to address the VOC RACT requirements for these areas, for which USEPA has published a direct final approval, along with a proposed approval action. See the direct final and proposed rulemakings published in the Federal Register on March 23, 1995 (60 FR 15235, and 60 FR 15270). Consequently, the VOC RACT fix-up requirements have now been fully approved and became effective on May 5, 1995. Also, by virtue of provisions of section 182(a), marginal areas were not required to submit a demonstration that the SIP provide for attainment.

With respect to the section 172(c)(2) Reasonable Further Progress (RFP) requirement, as the Canton and Youngstown areas have attained the ozone NAAQS no RFP requirements apply. See General Preamble for the Implementation of title I, 57 FR at 13564.

The section 172(c)(3) emissions inventory requirement was addressed in a separate review and December 7, 1995, rulemaking action on the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1) (See 60 FR 62737). In that action, the inventory was approved as meeting the section 182(a)(1) requirement. Since the 182(a)(1) requirement is met, the 172(c)(3) requirement is also satisfied.

As for the section 172(c)(5) NSR requirement, USEPA 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.

A 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, fully describes the rationale for this view, 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). As discussed below, the State of Ohio has demonstrated that the Canton and Youngstown areas will be able to maintain the standard without part D NSR in effect and, therefore, the State need not have a fully-approved part D NSR program prior to approval of the redesignation request for these areas. Once the area is redesignated to attainment, the PSD program, which has been delegated to Ohio, will become effective immediately. The PSD program was delegated to Ohio at Code of Federal Regulations 40 CFR 52.21(u), on May 1, 1980, and amended November 7, 1988.

The section 172(c)(9) contingency measure requirements also do not apply to marginal ozone nonattainment areas. Section 182(a) of the CAA states that section 172(c)(9) (relating to contingency measures) shall not apply to marginal areas.

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

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that, before they are taken, Federal actions 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'').

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio 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, and November 30, 1994, respectively. Because the redesignation request was submitted before these SIP revisions came due, they are not applicable requirements under section 107(d)(3)(E)(v) for the purposes of evaluating this redesignation request.

Marginal ozone nonattainment areas are subject to the requirements of section 182(a) of subpart 2. Ohio has met all of the applicable requirements of that subsection with respect to the Canton and Youngstown areas. The emission statement SIP required by section 182(a)(3)(B) was approved on October 13, 1994. See 59 FR 51863. An Inspection/Maintenance (I/M) SIP was not required under section 182(a)(2)(B) since these areas were not required to have an I/M program before the enactment of the 1990 CAA Amendments. On September 23, 1993, the proposed rulemaking on the VOC RACT SIP was published. On May 9, 1994, the final rulemaking was published. This rulemaking gave partial approval/disapproval, partial limited approval/limited disapproval. A direct final rulemaking was published on March 23, 1995, providing full approval of the VOC RACT rules required for Youngstown and Canton. The emissions inventories were approved in a separate rulemaking, published on December 7, 1995 (See 60 FR 62737). Finally, the State need not comply with the requirements of section 182(a)(2)(C) concerning revisions to the part D NSR program in order for the Canton and Youngstown areas to be redesignated for the reasons explained above in connection with the discussion of the section 172(c)(5) NSR requirement. Since the emissions inventory, emissions statements, and VOC RACT SIPs are fully approved, the redesignations meet the section 107(d)(3)(E)(ii) and (v) requirements.

C. The Improvement in Air Quality Must be due to Permanent and Enforceable Reductions in Emissions Resulting From the SIP, Federal Measures and Other Permanent and Enforceable Reductions

In order to meet this requirement, the State should show the change in an area's emissions from its design value year (this is generally 1988) to an attainment year. The design value year is the year in which the monitored concentration, used to classify these areas as marginal, occurred.

In Canton, point source VOC emissions decreased 2.9 tons per day (TPD) from 1988 to 1993, due to a State permit controlling emissions at the Smith & Nephew Perry facility in Massillon. Area sources changed very little between 1988 and 1993. Mobile source VOC and NO_X decreased 15.0 tons per day (TPD) of VOC, and 1.7 TPD, respectively from 1988 to 1993. These mobile source emission reductions were due to Federal Motor Vehicle Emissions Control Program (FMVECP) required at 40 Code of Federal Regulations (CFR) Part 86 and the Federal Reid Vapor Pressure (RVP) program (which lowered the RVP of gasoline to 9.0 psi) required at 40 CFR Part 80. Since both these programs are Federal programs and are Federally enforceable and permanent, the improvement in Canton's air quality was due to permanent and enforceable reductions in emissions.

In Youngstown, mobile and point source VOC emissions decreased approximately 5 TPD, and 1 TPD, respectively, between 1988 and 1990. The area source emissions were unchanged. This results in a total change in VOC emissions of approximately 6 TPD (6 percent decrease) from 1988 to 1990. The majority of this reduction was due to the FMVECP. Based on this, the improvement in Youngstown's air quality was due to permanent and enforceable reductions in emissions.

Both the Canton and Youngstown redesignation requests meet the section 107(d)(3)(E)(iii) redesignation requirements.

D. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. A September 4, 1992, USEPA memorandum from the Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions regarding redesignation provides further guidance on the required content of a maintenance plan.

An ozone maintenance plan should address the following five areas: the attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment and a contingency plan. The attainment emissions inventory identifies the emissions level in the area which is sufficient to attain the ozone NAAQS, and includes emissions during the time period which had no monitored violations. Maintenance is demonstrated by showing that future emissions will

not exceed the level established by the attainment inventory. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The State must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include contingency measures which ensure prompt correction of any violation of the ozone standard.

The State addresses the attainment inventory, maintenance demonstration, continued monitoring, tracking plans progress, and the contingency plan. The State has included emissions summaries for 1990 as the attainment inventories for Canton and Youngstown.

The Canton and Youngstown maintenance plans provide emissions estimates from 1990 to 2005 for VOCs.[1] The emissions are projected to decrease for both areas. The emissions projections for Youngstown show an expected 18 percent decrease in total VOC emissions, and almost a 6 percent decrease in total NO_X emissions from 1990 to 2005. For Canton, the emissions projections show a 15 percent reduction in VOC emissions and almost a 6 percent reduction in NO_X emissions. The results show that these areas are expected to maintain the ozone air quality standard for the next 10 years into the future.

TABLE 3.—VOC EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	12.36	42.65	31.66	86.67
1996	13.01	43.25	18.27	74.53
2000	13.46	43.67	16.90	74.03
2006	14.07	44.20	15.34	73.61

TABLE 4.—NO_X VOC EMISSIONS IN TONS PER SUMMER DAY

1990	6.74	16.87	16.20	39.81
1996	7.17	17.19	14.20	38.56
2000	7.51	17.40	13.18	38.09
2006	7.96	17.68	12.00	37.64

Emissions summaries for VOCs and NO_X are provided below for the Youngstown area:

TABLE 5.—VOC EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	16.71	41.28	48.98	106.97
1996	16.38	41.21	31.27	88.86
2000	15.90	41.14	27.58	84.62
2005	15.42	41.11	24.33	80.86

TABLE 6.—NO_X EMISSIONS IN TONS PER SUMMER DAY

Year	Point sources	Area sources	Mobile sources	Totals
1990	23.25	17.99	29.87	71.11
1996	23.30	17.90	27.54	68.74
2000	23.36	17.79	24.11	65.26
2005	23.46	17.70	21.12	62.28

The State also commits to continuing the operation of the monitors in both areas. It will also track the maintenance of the areas by regularly updating the emissions inventories for the areas. The transportation conformity budgets for 2005 will be 32.16 TPD of VOC and 27.30 TPD of oxides of nitrogen (NO_X) for Youngstown. These budgets were chosen by the State of Ohio. The interim years do not set a budget for transportation conformity. They are based on allocating 30 percent of the VOC emissions safety margin to the mobile source sector and 70 percent of the NO_X emissions safety margin to the mobile sources sector. The safety margin is the difference in emissions between the total 2006 emissions and the 1990 emissions for VOC and NO_X. For Canton, the mobile source emissions budgets for 2006 are 15.34 TPD of VOC emissions and 12.0 TPD of NO_X. The budgets provided above for Canton and Youngstown are the only transportation conformity budgets established by the maintenance plan for these areas.

[1] The State used USEPA's MOBILE emission factor model and vehicle miles travelled projections to estimate future mobile source emissions in the area.

The State commits to lower RVP as the contingency measure for Canton. They also provided the following schedule in Table 4 for implementing the measure. This measure would be triggered in Canton by a violation of the ozone standard in Stark County. In order for the State to user lower RVP gasoline, a finding of necessity must first be made by USEPA under Section 211(c)(4)(C). If this finding of necessity is not provided, Ohio EPA has committed to choose an alternative unspecified emissions control measure deemed appropriate based upon a consideration of cost-effectiveness, VOC reduction potential, economic and social considerations, or other factors that the State judges to be appropriate. This decision would be made and implemented within 12 months from the official notification by USEPA that a waiver would not be granted.

In the Youngstown area a violation of the standard in Mahoning, Trumbull, or Mercer County, would trigger the lower RVP measure for Mahoning and Trumbull Counties. USEPA has to provide a waiver before the lower RVP measure can be implemented. The State will select a different measure if USEPA does not provide the waiver. The maintenance requirements of section 107(d)(3)(E)(iv) have been met by the Canton and Youngstown areas.

TABLE 7.—SCHEDULE FOR IMPLEMENTING LOWER RVP GASOLINE IN THE CANTON AND YOUNGSTOWN AREAS

Date	Action/event
March 15, 1994	Submit draft rules to USEPA. Revisions will be necessary to accommodate the Youngstown contingency plan.
October 15, 1994	Submit final rules to USEPA.
Trigger event	Monitored violation.
1 month from trigger	Ohio EPA finding of violation announced.
	Ohio EPA submits request for program budget.
	Ohio EPA hires additional staff for program.
2 months from trigger	Ohio EPA secures lab contracts.
3 months from trigger	Ohio EPA purchases needed equipment.
4 months from trigger	Ohio EPA initiates public awareness program.
	Ohio EPA secures lab contracts.
Six months from trigger	Gasoline Dispensing Facilities achieve final compliance.

III. Transport of Ozone Precursors to Downwind Areas

Preliminary modeling results utilizing USEPA's regional oxidant model (ROM) indicate that ozone precursor emissions from various states west of the ozone transport region (OTR) contribute to increases in ozone concentrations in the OTR.[2] The State of Ohio has provided documentation that VOC emissions will remain below attainment levels for the next 10 years in the Canton and Youngstown areas. The USEPA is currently developing policy which will address the long range impacts of ozone transport. In addition, USEPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. Finally, USEPA intends to address the transport issue through Section 110 based on a domain-wide modeling analysis.

IV. Comment and Approval Procedure

The redesignation request is approved as meeting conditions of the CAA in section 107(d)(3)(E) for redesignation.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 1, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 1, 1996.

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 Executive Order 12866 review.

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

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local,

[2] The OTR, comprised of eleven Eastern States and the District of Columbia, has been organized by the authority of section 184(a) of the CAA for the purpose of facilitating multi-State partnership to more effectively control ozone transport in the region.

and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. 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 action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control.

Dated: December 15, 1995.

Valdas V. Adamkus,

Regional Administrator.

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.

2. Section 52.1885 is amended by adding paragraphs (b) (7) and (8) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(b) * * *

(7) Stark County.

(8) Mahoning and Trumbull Counties.

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PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—OHIO

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

Authority: 42 U.S.C. 7401—7671q.

2. In § 81.336 the ozone table is amended by revising the entries for Stark, Mahoning, and Trumbull Counties to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* *	* *	* *	*	*
Canton Area				
Stark County	April 1, 1996	Attainment.		
* *	* *	* *	*	*
Youngstown-Warren-Sharon Area:				
Mahoning County	April 1, 1996	Attainment.		
Trumbull County	April 1, 1996	Attainment.		
* *	* *	* *	*	*

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

[FR Doc. 96–1848 Filed 1–30–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 2E4037 and 5E4437/R2195; FRL–4993–1]

RIN 2070–AB78

1-[[2-(2,4-Dichlorophenyl)-4-Propyl-1,3-Dioxolan-2-yl]Methyl]-1H-1,2,4-Triazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2yl]methyl]-1*H*-1,2,4-triazole (also called propiconazole) and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on the raw agricultural commodities mint tops (leaves and stems) at 0.3 part per