

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[WA 63-7138; WA58-7133; OR57-7272; FRL-5824-1]

**Approval and Promulgation of State Implementation Plans and Redesignation of Areas for Air Quality; Planning Purposes: States of Washington and Oregon**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is redesignating the Portland/Vancouver (Pdx/Van) interstate nonattainment area to attainment for the ozone (O<sub>3</sub>) air quality standard and approving a Maintenance Plan that will insure that the area remains in attainment. Under the Clean Air Act, as amended in 1990 (the CAA), designations can be revised if sufficient data are available to warrant such revisions and the request to redesignate shows that all of the requirements of section 107(d)(E)(3) of the CAA have been met. EPA is approving the Washington and Oregon Maintenance Plans and other redesignation submittals because they meet the Maintenance Plan and redesignation requirements, and will ensure that the area remains in attainment. The approved Maintenance Plans will become a federally enforceable part of the Oregon and Washington State Implementation Plans (SIPs). In this action, EPA is also approving the Washington and Oregon 1990 baseline emission inventories for this area, revisions to the approved Inspection and Maintenance (I/M) SIPs of both States, and a number of other O<sub>3</sub> supporting revisions to both SIPs.

**DATES:** June 18, 1997.

**ADDRESSES:** Copies of the States' redesignation requests and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, and at the States' offices: Washington Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, and Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204-1390.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW, Washington, D.C. 20460, as well as the above addresses.

**FOR FURTHER INFORMATION CONTACT:** Sue Ennes, Office of Air Quality (OAQ-107), EPA, Seattle, Washington, (206) 553-6249.

**SUPPLEMENTARY INFORMATION:****I. Background**

The Oregon Department of Environmental Quality (ODEQ) and the Washington Department of Ecology (WDOE) submitted Maintenance Plans and requested redesignation of the Pdx/Van interstate nonattainment area from nonattainment to attainment for O<sub>3</sub>. The SIP revision requests were submitted by the WDOE on June 13, 1996, and by ODEQ on August 30, 1996. No tribal lands are within the Maintenance Plan area nor have any tribal lands been identified as being affected by the Maintenance Plans.

The Pdx/Van air quality maintenance area (AQMA) was designated an interstate O<sub>3</sub> nonattainment area in 1978 under the 1977 CAA. On November 15, 1990, the CAA Amendments of 1990 were enacted (Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). Under section 181(a)(1) of the CAA, the area was further classified as a "marginal" O<sub>3</sub> nonattainment area, and an attainment deadline of November 15, 1993, was established. This interstate nonattainment area consists of the southern portion of Clark County, Washington, and portions of Multnomah, Clackamas, and Washington Counties in Oregon.

The AQMA has ambient monitoring data that show no violations of the O<sub>3</sub> national ambient air quality standards (NAAQS) during the period of 1991 to the present. The WDOE and ODEQ provided these monitoring data and modeling and emissions data to support their redesignation request. On March 7, 1997, EPA proposed to approve the WDOE's and ODEQ's requested redesignation. In its notice of proposed approval and redesignation, EPA reviewed in detail the submittals it was considering as the basis for its proposed actions.

**II. Response To Comments**

The following comments were received during the public comment period ending April 7, 1997. EPA's response follows each comment.

(1) *Comment:* The commenter asserted that, while the Maintenance Plan for Clark County relies heavily on expanding the automobile inspection area, there are no data on hand to support a theory that auto emissions from that expanded area are significant contributors to high ozone events.

*Response:* EPA has reviewed the Vancouver portion of the Pdx/Van O<sub>3</sub>

Redesignation Request/Maintenance Plan and believes that the Southwest Air Pollution Control Authority (SWAPCA) has a reasonable basis for deciding to expand the maintenance area. EPA notes that the expansion of the automobile inspection testing into Northern Clark County is only one of several parts of the Vancouver Maintenance Plan. Emission reductions are also being obtained from the approximately 170,000 vehicles in southern Clark County by: switching to a more sophisticated emission test procedure (known as ASM) (setting ASM standards for exhaust emissions will result in an enhanced ability to identify polluting vehicles); gasoline cap leak checks; stage I and II vapor controls on gasoline vapors; application of the EPA national off-road engine rule; Volatile Organic Compound (VOC) Area Source rules targeting emissions from consumer products, architectural and industrial maintenance coatings, and autobody refinishing; and phase-out of open burning. Also, new industry or existing industry modifications will continue to be subject to Best Available Control Technology (BACT) and will still be subject to these controls under the O<sub>3</sub> Maintenance Plan.

SWAPCA has provided the following Census data to support the expanded boundary portion of the Vancouver Maintenance Plan. The 1990 U.S. Census commuter statistics outlined below demonstrate North Clark County motor vehicles are contributing to the air pollution problem:

- 51.9% (5,046 citizens) of Battle Ground zipcode residents who are employed commute to the City of Vancouver and Portland for their work;
- 65.3% (1,162 citizens) of Brush Prairie zipcode residents who are employed commute to the City of Vancouver and Portland for their work;
- 58.4% (2,816) of Ridgefield zipcode residents who are employed commute to the City of Vancouver and Portland for their work; and
- 42.5% (2,185) of La Center zipcode residents who are employed commute to the City of Vancouver and Portland for their work.

EPA also notes that SWAPCA's decision to expand the automobile maintenance area was made after SWAPCA had followed the public participation requirements that are established under State law and meet the requirements of the CAA.

(2) *Comment:* The same commenter on the Vancouver Maintenance Plan wrote that, when the vast amount of naturally occurring VOCs are taken into account, it should be obvious that nitrogen oxides (NO<sub>x</sub>) are the critical factor and that the large industrial sources of that compound must be considered. Because the commenter believes it would cost less to equip industrial sources with NO<sub>x</sub> controls than to extend the auto test area for an equal O<sub>3</sub> reduction, the commenter believes that the Maintenance Plan is designed to favor industry at public expense.

*Response:* Information provided by SWAPCA to EPA shows that cars make up about 35% of the VOC emissions and over 50% of the NO<sub>x</sub> emissions in the nonattainment area. The portion of vehicle miles travelled (VMT) in the nonattainment area which comes from North Clark County cars is 15%, which is substantial. SWAPCA believes that targeting these emissions with an expansion of the I/M program will reduce emissions by approximately 180 tons/year of VOCs and 150 tons/year of NO<sub>x</sub>, and will result in an additional 30,000 vehicles being tested every two years.

The documentation utilized by SWAPCA supports its views that additional NO<sub>x</sub> controls on industry are not as cost effective as those being proposed in the Maintenance Plan (\$2,500–\$7,000/ton for industrial NO<sub>x</sub> control versus \$100–\$2000/ton for a vehicle inspection program.) The CAA also targets larger industrial sources with new permitting requirements. Therefore, industry will still be required to complete BACT for any new sources or modification. Information submitted by SWAPCA also shows that emissions from naturally occurring VOCs were taken into account and that controlling NO<sub>x</sub> emissions was considered. SWAPCA anticipates there will be NO<sub>x</sub> reductions from the improved vehicle inspection program, from continuance of BACT for industrial sources, and from the EPA non-road engine rule for nonroad sources.

(3) *Comment:* A commenter requested that EPA not approve the Vancouver Maintenance Plan until SWAPCA modifies the emission inventory contained in the plan and EPA revises its guidance dealing with projection inventories contained in Section 3.2.3 of "Emission Inventory Requirements for Ozone State Implementation Plans." This comment concerns SWAPCA's decision to not include future emissions from certain major emitters in the Longview area, although prior correspondence from EPA stated that

those sources must be included because they are within 25 miles of the boundary of the nonattainment area. SWAPCA added them to the 1992 base inventory, but the commenter asserts SWAPCA did not include projections of those emissions through the 10 year maintenance period because it is not expressly required by EPA's guidance. The commenter wrote that the Weyerhaeuser and Longview Fibre pulp mills in Longview, Washington, are the largest emitters of NO<sub>x</sub> and VOCs in the area, and their emissions are growing as their new expansions come on stream. In addition, the prevailing winds in the summer blow directly from these plants toward Vancouver. The commenter believes that it is a gross distortion of the projected inventories to exclude them and it has resulted in the application of controls to other much smaller emitters that are not equitable. The commenter also requested that EPA postpone reclassification of the Pdx/Van area until these changes are made.

*Response:* EPA believes the issue raised in this comment has been appropriately addressed by SWAPCA in the Vancouver portion of the O<sub>3</sub> Maintenance Plan. Furthermore, EPA does not believe there is any basis to delay action on these SIP revisions and reclassification of this area until revision of the applicable guidance.

For reclassification of the Pdx/Van area, a marginal O<sub>3</sub> nonattainment area, EPA requires completion of an emission inventory. The emission inventory approach is defined as calculating the emissions within the nonattainment area plus industrial source emissions (greater than 100 tons per year) that are within a 25 mile radius. The Longview sources were included in the 1992 emission inventory for point sources in Appendix D of the Vancouver portion of the O<sub>3</sub> Maintenance Plan.

EPA also requires that the Maintenance Plan project emissions to demonstrate the NAAQS for O<sub>3</sub> will be maintained for a 10 year period after redesignation. More detailed computer modeling required to justify redesignation decisions in severe O<sub>3</sub> nonattainment areas is not necessary to support redesignation of a marginal area.

In deciding to not include the sources cited by the commenter in the Maintenance Plan projections, SWAPCA reasonably relied on a preliminary screening model to conclude that these sources contribute between 1% to 10% of their emissions to the nonattainment area. SWAPCA decided to wait for the results of "future studies" before determining whether additional control measures are needed on these sources to

maintain healthy air in Clark County. In reference to the wind direction issue, SWAPCA's information indicates that the closest meteorological station to Vancouver is the Portland International Airport. However, SWAPCA is concerned that the data from the Portland International Airport are not representative of the entire Vancouver area. A review of available windspeed data on high O<sub>3</sub> days by SWAPCA and ODEQ indicates wind speeds are not uniform throughout the day in the Pdx/Van area. Also, winds travel at different speeds and directions at different altitudes. Modeling of air pollution impacts would need to consider these factors as well as the height of the stacks and plumes from point sources. In the fall of 1996, a local meteorological station was installed in Vancouver which will better help SWAPCA to anticipate inversion conditions. In the Pdx/Van Redesignation Request/Maintenance Plan, SWAPCA committed to completing "future studies" to estimate the contribution of emissions from these sources to the Pdx/Van O<sub>3</sub> area. Additional O<sub>3</sub> and NO<sub>x</sub> monitors have been purchased which were to be operational by May 1, 1997. As these data are collected and additional funding is obtained for the modeling efforts, SWAPCA expects it will be possible to address the issue raised by this comment using sound scientific data.

EPA also notes that, if the Weyerhaeuser and Longview Fibre pulp mills in Longview expand, they will undergo Prevention of Significant Deterioration (PSD) review which evaluates BACT and also will conduct an ambient impact analysis to ensure that the NAAQS and PSD increment will not be violated.

EPA will not agree to delay the approval of the Maintenance Plan and the redesignation of this area to attainment. Under Title I of the CAA, Congress established a system of state and federal cooperation. EPA is required to establish the NAAQS, i.e., the level at which air quality is determined to be protective of human health. However, the States take the primary lead in determining the measures necessary to attain and maintain the NAAQS. These measures are incorporated into the SIP. The CAA requires EPA to approve a SIP submission that meets the requirements of the CAA. If the State fulfills its obligations in developing a SIP that meets the requirements of the CAA, EPA has no authority to supplement or revise that plan with a federal implementation plan. Because the States have submitted a Maintenance Plan that complies with the CAA, EPA must approve the

Maintenance Plan under section 110(k)(3). Furthermore, since the States have met the redesignation requirements to demonstrate that the air quality meets the NAAQS, EPA believes the air quality is sufficient to protect the public health and, therefore, EPA cannot reject the redesignation request on this basis. Since the States submitted Maintenance Plans and Redesignation Requests that comply with the Act, and there is no issue about whether the States have the authority to implement the measures included in the submission, EPA has no basis for modifying the State's selection of the measures in the Maintenance Plan.

(4) *Comment:* The United Associated of Fitters and Apprentices, Local #290 objected to the EPA approvals of the revisions to the Oregon SIP because, under Oregon law, Local #290 has no legal standing to represent the rights of their members in judicial proceedings involving ODEQ permits. This comment asserts that EPA's delegation of CAA enforcement, from EPA to Oregon ODEQ, "is premised on ODEQ's allowing individuals to exercise their constitutionally-granted representational rights, for groups to which they belong, to appeal DEQ's decisions, including but not limited to DEQ permits issued under the Clean Air (and Clean Water) Acts." Because Local #290 believes that ODEQ does not allow a group such as Local #290 to seek judicial review of a permit issued by ODEQ, it vehemently objects to EPA granting any further delegated authority to enforce the CAA and Clean Water Act. Furthermore, Local #290 asks that EPA rescind any existing delegations of CAA enforcement authority, unless and until ODEQ grants groups in Oregon the legal standing to represent the rights of their members in judicial proceedings involving ODEQ permits.

*Response:* This comment is not relevant to the actions EPA is taking in this notice. Title I of the CAA, which establishes requirements for SIPs and designation actions, contains no provisions governing judicial review of permits issued by a State. EPA finds that ODEQ has met the public participation requirements of Title I of the CAA. Therefore, EPA does not agree to delay its actions on the SIP revisions that are the subject of this notice or to delay its redesignation to attainment of the Pdx/Van O<sub>3</sub> area for the reason cited by the commenter. However, EPA is pursuing the matter of Oregon's judicial review in the context of Title V of the CAA, which requires that a State provide judicial review of its actions. For purposes of ODEQ's Title V program, which EPA has approved, EPA will evaluate

whether State law meets the requirements of the CAA.

### III. Final Action

EPA is redesignating to attainment the Portland, Oregon; and Vancouver, Washington, interstate O<sub>3</sub> area because ODEQ and WDOE have demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is approving the Portland and Vancouver O<sub>3</sub> Maintenance Plans as meeting the requirements of the CAA, including the requirements set forth in EPA regulations and guidance.

EPA also is approving the 1990 O<sub>3</sub> Emission Inventories, changes to the New Source Review (NSR) programs, regulations implementing the hybrid low enhanced I/M programs, an expanded vehicle inspection boundary, minor Reasonably Available Control Technology (RACT) rule changes (Vancouver only), Employee Commute Options rule (Portland only), Voluntary Parking Ratio rule (Portland only), Plant Site Emission Limits (PSEL) management rules (Portland only), and local area source supporting rules.

EPA notes that, as part of its SIP submission, Oregon and Washington included adequate backup plans for contingencies to ensure continued attainment of the NAAQS and to meet the emission reduction targets of the submittals approved today. For example, the contingency plans for both states provide assurances that contingency measures will be adopted within 12 months after a violation of the NAAQS occurs and implemented within a specified period of time. Similarly, if Oregon's Voluntary Parking Ratio or the Public Education and Incentive programs fail to achieve emission reductions equal to the target set in the Maintenance Plan, ODEQ has furnished a commitment to adopt backup measures by a date certain. EPA finds that there is adequate assurance that the planned emission reductions will be achieved and they are therefore approved for credit in the Maintenance Plan. Additional regulations specific to Washington only and Oregon only are described below.

#### Washington

The regulations EPA is approving now for the Vancouver, Washington, portion are found in the following. EPA is approving only those changes to SWAPCA's NSR rules that relate to the new maintenance area NSR provisions and EPA will be taking action on the remaining portions of the December 11, 1996, NSR submittal in a separate action.

—SWAPCA 400 "General Regulations for Air Pollution Sources" 400-030 Definitions (except for the second sentence of subsections (14) and (49), and subsection (84)), -101 Sources Exempt from Registration Requirements, -109 Notice of Construction Application (except subsections (3)(b), (3)(c), (3)(g), (3)(h), and (3)(i)), -110 New Source Review, -111 Requirements for Sources in a Maintenance Area, -112 Requirements for new Sources in Nonattainment Areas, -113 Requirements for New Sources in Attainment or Nonclassifiable Areas, -114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source, -116 Maintenance of Equipment, and -190 Requirements for Nonattainment Areas.

—SWAPCA 490 "Emission Standards and Controls for Sources Emitting Volatile Organic Compounds" 490-010 Policy and Purpose, -020 Definitions, -025 General Applicability, -030 Registration and Reporting, -040 Requirements, -080 Exceptions and Alternative Methods, -090 New Source Review, -200 Petroleum Refinery Equipment Leaks, -201 Petroleum Liquid Storage in External Floating Roof Tanks, -202 Leaks from Gasoline Transport Tanks and Vapor Collection Systems, -203 Perchloroethylene Dry Cleaning Systems, -204 Graphic Arts Systems, -205 Surface Coating of Miscellaneous Metal Parts and Products, -207 Surface Coating of Flatwood Paneling, -208 Aerospace Assembly and Component Coating.

—SWAPCA 491 "Emission Standards and Controls for Sources Emitting Gasoline Vapors" 491-010 Policy and Purpose, -015 Applicability, -020 Definitions, -030 Registration, -040 Gasoline Vapor Control Requirements (Stage I and II), -050 Failures, Certification, Testing and Recordkeeping, -060 Severability.

—SWAPCA 493 "VOC Area Source Rules" 493-100 Consumer Products (Reserved), -200-010 Applicability, -020 Definitions, -030 Spray Paint Standards and Exemptions, -040 Requirements for Manufacture, Sale and Use of Spray Paint, -050 Recordkeeping and Reporting Requirements, -060 Inspection and Testing Requirements, 493-300-010 Applicability, -020 Definitions, -030 Standards, -040 Requirements for Manufacture, Sale and Use of Architectural Coatings, -050 Recordkeeping and Reporting Requirements, -060 Inspection and Testing Requirements, -400-010

Applicability, -020 Definitions, -030 Coating Standards and Exemptions, -040 Requirements for Manufacture and Sale of Coatings, -050 Requirements for Motor Vehicle Refinishing in Vancouver AQMA, -060 Recordkeeping and Reporting Requirements, -070 Inspection and Testing Requirements, -500-010 Applicability, -020 Compliance Extensions, -030 Exemption From Disclosure to the Public, -040 Future Review.

The amendments to SWAPCA 400, 490, and 491 became State-effective on November 21, 1996. The amendments to SWAPCA 493 became State-effective on May 25, 1996.

EPA also approves the Washington I/M SIP revision (WAC 173-422, sections -030, -050, -060, -070, -170, and -190), which was adopted by the State on November 9, 1996.

#### Oregon

For the Portland, Oregon, portion, EPA approves the following regulations.

- OAR 340-028 "New Source Review" 340-020-0047 State of Oregon Clean Air Act Implementation Plan, -028-0110 Definitions, -1900 Applicability, -1910 Procedural Requirements, -1920 Review of New Sources and Modifications for Compliance with Regulations, -1930 Requirements for Sources in Nonattainment Areas, -1935 Requirements for Sources in Maintenance Areas, -1940 Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas, -1960 Baseline for Determining Credit for Offsets, -1970 Requirements for Net Air Quality Benefit, -2000 Visibility Impact, -030-0111 Emissions Offsets. State-effective date November 26, 1996.
- OAR 340-022 "Stage II Vapor Recovery Regulations" 022-0400 Purpose, -0401 Definitions, -0402 General Provisions, -0403 Compliance Schedules. State-effective date August 14, 1996.
- OAR 340-022 "Area Source VOC Regulations" 022-0700 Motor Vehicle Refinishing Applicability, -0710 Definitions, -0720 Coating Standards and Exemptions, -0730 Requirements for Manufacture and Sale of Coatings, -0740 Requirements for Motor Vehicle Refinishing in Portland AQMA, -0750 Recordkeeping and Reporting Requirements, -0760 Inspection and Testing Requirements, -0800 Consumer Products Applicability, -0810 Definitions, -0820 Consumer Products Standards and Exemptions, -0830 Requirements

for Manufacture and Sale of Consumer Products, -0840 Innovative Products, -0850 Recordkeeping and Reporting Requirements, -0860 Inspection and Testing Requirements, -0900 Spray Paint Applicability, -0910 Definitions, -0920 Spray Paint Standards and Exemptions, -0930 Requirements for Manufacture, Sale and Use of Spray Paint, -0940 Recordkeeping and Reporting Requirements, -0950 Inspection and Testing Requirements, -1000 Architectural Coatings Applicability, -1010 Definitions, -1020 Standards, -1030 Requirements for Manufacture, Sale and Use of Architectural Coating, -1040 Recordkeeping and Reporting Requirements, -1050 Inspection and Testing Requirements, -1100 Area Source Common Provisions Applicability, -1110 Compliance Extensions, -1120 Exemption from Disclosure to the Public, -1130 Future Review. State-effective date August 14, 1996.

EPA also approves the Industrial Emissions Management Program Regulations (OAR 340-030-0700 through -340-030-0740); Employee Commute Options Program Regulations (OAR 340-030-0800 through -340-030-1080); Voluntary Maximum Parking Ratios Program Regulations (OAR 340-030-1100 through -340-030-1190). The above three amendments to the OAR became State-effective on August 14, 1996. The following three amendments became State-effective on August 19, 1996: Definitions of Boundaries (OAR 340-031-0500); Nonattainment Areas (OAR 340-031-0520); Maintenance Areas (OAR 340-031-0530).

EPA approves the amendment to Oregon's Motor Vehicle Inspection and Maintenance Area Boundary (OAR 340-024-0301), effective August 12, 1996. EPA approves the Oregon I/M revisions to OAR 340-24-0100, -0300, -0305, -0306, -0307, -0308, -0309, -0312, -0314 (with the exception of all language in (4)(a) referring to a "sixth hill extrapolation"), -0318, -0320, -0325, -0330, -0332, -0335, -0337, -0340, -0355, -0357, and -0360, State effective on November 26, 1996. EPA also approves the deletion of OAR 340-24-0310, -0315, and -0350, State effective on November 26, 1996.

During EPA's review of a SIP revision involving Oregon's statutory authority, a problem was detected which affected the enforceability of point source permit limitations. Even though the SIP does not contain additional point source controls to attain the standard, existing and federally approved point source emission limitations are relied upon to

maintain and demonstrate attainment with the O<sub>3</sub> NAAQS. EPA determined that, because the five-day advance notice provision required by ORS.126(1) (1991) bars civil penalties from being imposed for certain permit violations, ORS 468 fails to provide the adequate enforcement authority the State must demonstrate to obtain SIP approval, as specified in Section 110 of the CAA and 40 CFR 51.230. Accordingly, the requirement to provide such notice would preclude federal approval of a O<sub>3</sub> nonattainment area SIP revision. EPA notified Oregon of the deficiency. To correct the problem, the Governor of Oregon signed into law new legislation amending ORS 468.126 on September 3, 1993. This amendment added paragraph 468.126(2)(e) which provides that the five-day advance notice required by ORS 468.126(1) does not apply if the notice requirement will disqualify the State's program from federal approval or delegation. ODEQ responded to EPA's understanding of the application of 468.126(2)(e) and agreed that, if federal statutory requirements preclude the use of the five-day advance notice provision, no advance notice will be required for violations of SIP requirements contained in permits.

Nothing in this action should be construed as permitting or 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.

#### IV. Administrative Requirements

##### A. Executive Order 12866

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.

##### B. Regulatory Flexibility Act

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 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, the Administrator certifies 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

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.

**C. Unfunded Mandates**

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

**D. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**E. Petitions for Judicial Review**

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 July 18, 1997. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**40 CFR Part 81**

Air pollution control, National parks, Wilderness areas.

Dated: April 30, 1997.

**Chuck Clarke,**  
*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.

**Subpart MM—Oregon**

2. Section 52.1970 is amended by adding paragraph (c)(120) to read as follows:

**§ 52.1970 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

(120) The Oregon Department of Environmental Quality (ODEQ) and the Washington Department of Ecology (WDOE) submitted Maintenance Plans that demonstrate continued attainment of the NAAQS for O<sub>3</sub> and requested redesignation of the Pdx/Van interstate nonattainment area from nonattainment to attainment for O<sub>3</sub>. The SIP revision requests were submitted by the WDOE on June 13, 1996, and by ODEQ on August 30, 1996. A number of other O<sub>3</sub> supporting revisions were included in this submittal, such as: the 1990 O<sub>3</sub> Emission Inventories; changes to the NSR programs; regulations implementing the hybrid low enhanced I/M programs; an expanded vehicle inspection boundary; minor RACT rule changes (Vancouver only); Employee Commute Options rule (Portland only); Voluntary Parking Ratio rule (Portland only); PSEL management rules (Portland only); and local area source supporting rules.

(i) Incorporation by reference.

(A) Ozone Maintenance Plan and Redesignation Request for the Portland/Vancouver AQMA (Oregon Portion) effective August 14, 1996.

(B) Oregon Inspection and Maintenance SIP revision to Section 5.4; OAR 340-024-0100, -0300, -0305, -0306, -0307, -0308, -0309, -0312 (with the exception of all language in (4) (a) referring to a "sixth hill extrapolation"), -0314, -0318, -0320, -0325, -0330, -0332, -0335, -0337, -0340, -0355, -0357, and -0360, State effective on November 26, 1996.

(C) New Source Review: OAR 340-020-0047; OAR 340-028-0110, 1900 through 1940, 1960, 1970, and 2000; OAR 340-030-0111, State effective on November 26, 1996.

(D) Supporting Regulations approved as part of the Ozone non-attainment redesignation package: OAR 340-022-0400, -0401, -0402, -0403, -0700, -0710, -0720, -0730, -0740, -0750, -0760, -0800, -0810, -0820, -0830, -0840, -0850, -0860, -0900, -0910, -0920, -0930, -0940, -0950, -0960, -0970, -0980, -0990, -1000, -1010, -1020, -1030, -1040, -1050, -1100, -1110, -1120, -1130, State effective on 8/14/96; OAR 340-024-0301, State effective on 8/12/96; OAR 340-030-0700, -0710, -0720, -0730, -0740, -0800, -0810, -0820, -0830, -0840, -0850, -0860, -0870, -0880, -0890, -0900, -0910, -0920, -0930, -0940, -0950, -0960, -0970, -0980, -0990, -1000, -1010, -1020, -1030, -1040, -1050, -1060, -1070, -1080, -1100, -1110, -1120, -1130, -1140, -1150, -1160, -1170, -1180, -1190, State effective on 8/14/96; and OAR 340-031-0500, -0520, -0530, State effective on 8/19/96.

**Subpart WW—Washington**

3. Section 52.2470 is amended by adding paragraph (c) (72) to read as follows:

**§ 52.2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(73) The Washington Department of Ecology (WDOE) and the Oregon Department of Environmental Quality (ODEQ) submitted Maintenance Plans that demonstrate continued attainment of the NAAQS for O<sub>3</sub> and requested redesignation of the Pdx/Van interstate nonattainment area from nonattainment to attainment for O<sub>3</sub>. The SIP revision requests were submitted by the WDOE on June 13, 1996, and by ODEQ on August 30, 1996. A number of other O<sub>3</sub> supporting revisions are included in this submittal they are: the 1990 O<sub>3</sub> Emission Inventories; changes to the NSR programs; regulations implementing the hybrid low enhanced

I/M programs; an expanded vehicle inspection boundary; minor RACT rule changes (Vancouver only); Employee Commute Options rule (Portland only); Voluntary Parking Ratio rule (Portland only); PSEL management rules (Portland only); and local area source supporting rules.

(i) Incorporation by reference.

(A) Vancouver, Washington Ozone Maintenance Plan and Redesignation Request—state adopted June, 17, 1996.

(B) Washington Inspection and Maintenance SIP revision WAC 173 422-030, -050, -060, -070, -170, -190—State adopted November 9, 1996.

(C) NSR: SWAPCA 400-030 (except for the second sentence of subsections (14) and (49), and subsection (84)), 101, 109 (except subsections (3)(b), (3)(c), (3)(g), (3)(h), and (3)(i)), 110, 111, 112, 113, 114, 116, and 190, effective November 21, 1996.

(D) Supporting Rules.

(1) SWAPCA 491-010, -015, -020, -030, -040, -050, -060,—State-effective on November 1, 1996.

(2) SWAPCA 490-010, -020, -025, -030, -040, -080, -090, -200, -201, -202, -203, -204, -205, -207, -208—State effective November 21, 1996.

(3) SWAPCA 493-100, 493-200-010, -020, -030, -040, -050, -060, 493-300-010, -020, -030, -040, -050, -060, 493-400-010, -020, -030, -040, -050, -060, -070, 493-500-010, -020, -030, -040,—State effective May 26, 1996.

**PART 81—[AMENDED]**

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

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

2. In § 81.338, the table entitled “Oregon-Ozone” is amended by revising the entry for the “Portland-Vancouver AQMA Area” to read as follows:

**§ 81.338 Oregon.**

\* \* \* \* \*

**OREGON—OZONE**

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Portland-Vancouver AQMA Area Air Quality Maintenance Area Clackamas County (part) Multnomah County (part) Washington County (part)		Attainment		
* * * * *				

<sup>1</sup>This date is November 15, 1990, unless otherwise noted.

\* \* \* \* \*

3. In § 81.348 the table entitled, “Washington-Ozone” is amended by revising the entry for the “Portland—Vancouver AQMA Area” to read as follows:

**§ 81.348 Washington.**

\* \* \* \* \*

**WASHINGTON—OZONE**

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Portland-Vancouver AQMA Area Clark County (part) Air Quality Maintenance Area		Attainment		
* * * * *				

<sup>1</sup>This date is November 15, 1990, unless otherwise noted.

\* \* \* \* \*