

(5), with the exception that the master of a Makah whale hunting vessel displaying pennant five (5) may authorize vessels assisting the hunt to enter the moving exclusionary zone.

(d) The activation of the moving exclusionary zone described in paragraph (b) of this section is signaled by the display of the international numeral pennant five (5) is from the Makah hunting vessel. This numeral pennant five (5) is authorized to be displayed only from the Makah hunting vessel during an actual whale hunt.

(e) The Mekah Tribe will make hourly SECURITE broadcasts notifying mariners of the hunt and the moving exclusionary zone on channel 16 VHF-FM while the hunt is in effect.

J. David Spade,

*Rear Admiral, U.S. Coast Guard Commander,
13th Coast Guard District.*

[FR Doc. 98-19423 Filed 7-21-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AZ 072-0085; FRL-6125-6]

Approval and Promulgation of Maintenance Plan and Designation of Area for Air Quality Planning Purposes for Carbon Monoxide; State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to redesignate the Tucson Air Planning Area (TAPA) to attainment for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS) and to approve a maintenance plan that will insure that the area remains in attainment. Under the 1990 amendments of the Clean Air Act (CAA), designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is proposing to approve the TAPA redesignation as meeting the requirements set forth in the CAA.

DATES: Written comments on this proposal must be postmarked on or before August 21, 1998.

ADDRESSES: Comments should be addressed to Eleanor Kaplan at the Region 9 address listed.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations between 8:00 a.m. and 4:30 p.m. on weekdays. A reasonable fee may be charged for copying parts of the docket.

U.S. Environmental Protection Agency, Region 9, Air Division, Air Planning Office, (AIR-2), 75 Hawthorne Street, San Francisco, California 94105-3901, (415) 744-1159

Arizona Department of Environmental Quality, Library 3033 N. Central Avenue, Phoenix, Arizona 85012, (602) 207-2217

Pima County Department of Environmental Quality, 130 West Congress, Tucson, Arizona 85701, (520) 740-3340.

FOR FURTHER INFORMATION CONTACT:

Eleanor Kaplan, Air Planning Office (AIR-2), Air Division, United States US Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1159.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, the Clean Air Act Amendments (CAAA) of 1990 were enacted. Pub. L., 101-549, 104 Stat. 2399, codified at 42 U.S.C. Sections 7401-7671q. Section 107(d)(1)(C) of the amended Act provides that each CO area designated nonattainment, attainment, or unclassifiable immediately before the date of enactment of the Act is designated, by operation of law, as a nonattainment, attainment, or unclassifiable area, respectively. On November 6, 1991, the Tucson Area of Pima County was classified by operation of law as nonattainment, not classified. See 56 FR 56716 (November 6, 1991). The extent of the Tucson Area is described in 40 CFR 81.303 as the Tucson [sic] Area, Pima County (part) by Township and Range.

EPA describes areas as "not classified" if they were designated nonattainment both prior to enactment of the CAAA and (pursuant to section 107(d)(1)(C)) at enactment, and if they did not violate the primary NAAQS for CO in either year for the 2-year period 1988 through 1989. See 57 FR 13535 (April 16, 1992).

The Pima Association of Governments (PAG), as the designated air planning agency for Pima County, has collected ambient monitoring data that show no violation of the CO NAAQS in the TAPA during the years 1993 through the present. (See discussion in Section III below.) Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on August 21, 1996 the Arizona Department of Environmental Quality (ADEQ) requested redesignation of the area to attainment with respect to the CO NAAQS and submitted a CO limited maintenance plan (LMP) for the TAPA.

The PAG's Regional Council had prepared and adopted the LMP on June 26, 1996. ADEQ submitted evidence that public hearings were held on April 22, 1996 and June 20, 1996. In accordance with section 110(k)(1)(B) of the Act, the TAPA CO redesignation request and maintenance plan was deemed complete by operation of law on February 27, 1997. On October 6, 1997 ADEQ submitted an amended CO LMP for the TAPA including evidence that a public hearing was held on August 20, 1997 on the amendments to the plan.

II. Redesignation Evaluation Criteria

Section 107(d)(3)(E) of the CAA provides specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;
2. the area has met all relevant requirements under section 110 and part D of the Act;
3. the air quality improvement must be permanent and enforceable; and
4. the area must have a fully approved maintenance plan pursuant to section 175A of the Act.

Section 107(d)(3)(D) allows a Governor to initiate the redesignation process for an area to apply for attainment status.

III. Review of State Submittal

The Arizona redesignation request for the TAPA meets the requirements of section 107(d)(3)(E) noted above. The following is a brief description of how the State has fulfilled each of these requirements.

1. Attainment of the CO NAAQS

Arizona has quality assured ambient air monitoring data showing that the TAPA has met the CO NAAQS. The Arizona request is based on an analysis of quality assured CO air monitoring data which is relevant to the maintenance plan and to the redesignation request. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard per year over at least two consecutive years. The ambient air CO monitoring data for the period from July 1, 1993 through December 31, 1995 relied upon by Arizona in its redesignation request shows no exceedances of the CO NAAQS in the TAPA. Additionally, based on data retrieved from the Aerometric Information and Retrieval System (AIRS), there have been no exceedances of the CO standard from 1995 to the present. Because the area has complete quality assured data

showing no exceedance of the standard over at least two consecutive years (1994 and 1995), and has not violated the standard since that time, the area has met the first statutory criterion of attainment of the CO NAAQS (40 CFR 50.8 and appendix C).

2. Meeting Applicable Requirements: Section 110 and Part D

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the Act, EPA has reviewed the Arizona SIP to ensure that it contains all measures that were due under the amended Act prior to or at the time the State submitted its redesignation request, as set forth in EPA policy.¹ All of the SIP requirements must be met by the TAPA and approved into the SIP by EPA by the time the area is redesignated.

a. Section 110 Requirements

On April 16, 1982 EPA approved changes to the air pollution control regulations of the Pima County Health Department submitted by the Arizona Department of Health Services as revisions to the Arizona SIP. See 47 FR 16326-16328 (April 16, 1982). In this action EPA found that the rules, which were generally administrative in nature, were in accordance with EPA policy and 40 CFR Part 51, "Requirements For Preparation, Adoption, and Submittal of Implementation Plans".

The maintenance plan submitted by the TAPA on October 6, 1997 states that the provisions of Arizona Revised Statute (A.R.S.) 49-406 provide assurance that the control measures contained in the maintenance plan would be implemented. A.R.S. 49-406 provides for state assurances that emission control measure commitments in local nonattainment area plans would be fully implemented as required by Section 110(a)(2)(E) of the CAA. Since the TAPA has applied for redesignation to attainment and has submitted a maintenance plan for approval, EPA requested clarification from Arizona that the provisions of A.R.S. 49-406 apply to attainment as well as nonattainment areas. The Arizona

legislature on May 29, 1998 amended A.R.S. 49-406 to include attainment as well as nonattainment areas. EPA is proposing in this notice to take final action on the TAPA request for redesignation and approval of a maintenance plan if, prior to that action, ADEQ submits a SIP revision containing A.R.S. 49-406, as amended. EPA proposes to approve the amendments to A.R.S. 49-406 if they are submitted before final action. That SIP revision, together with the Pima County SIP that was approved in 1982, will fulfill the requirement that the area have an approved 110 SIP.

b. Part D Requirements

On August 10, 1988 EPA approved Arizona's SIP for the TAPA based on the conclusion that the control measures and attainment demonstration submitted with the plan met the requirements of Section 110(a) and Part D of the CAA. See 53 FR 30220 (August 10, 1988).²

On November 6, 1991 the TAPA was classified by operation of law as nonattainment, not classified. See 56 FR 56716 (November 6, 1991). Before the TAPA may be redesignated to attainment, it also must have fulfilled the applicable requirements of Part D of the Act. The 1990 CAA Amendments modified section 110(a)(2) and, under Part D, revised section 172 and added new requirements for all nonattainment areas depending on the severity of the nonattainment classification. However, the Act did not specify how the requirements of subpart 1 of part D apply to "not classified" nonattainment areas for CO. EPA has interpreted the requirements for those areas in the General Preamble to Title I of the Clean Air Act Amendments of 1990. See FR 57 13535 (April 16, 1992). According to this guidance, requirements for the

TAPA as a not classified nonattainment area for CO include the preparation of an emissions inventory in the SIP revision due three years from designation, adoption of New Source Review (NSR) programs meeting the requirements of section 173 as amended, and meeting the applicable monitoring requirements of section 110. The General Preamble also states that certain reasonably available control measures (RACM) beyond what may already be required in the SIP, reasonable further progress (RFP) and attainment demonstration requirements are not applicable to "not classified" CO nonattainment areas. See 57 FR 13498, (April 16, 1992).

Each of the Part D requirements pertaining to the TAPA is discussed below.

Emissions Inventory: The 172(c)(3) emissions inventory requirement has been met by the TAPA with the submission of the 1994 base year emissions inventory discussed in section 3.b. of this **Federal Register** document. The inventory includes stationary point sources, stationary area sources, on-road mobile sources, and nonroad mobile sources of CO emissions using 1994 as the base year for calculations to demonstrate maintenance. For further details on the emission inventory, the reader is referred to the Technical Support Document, which is available for review at the addresses provided above.

New Source Review: Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols entitled "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment", EPA is not requiring as a prerequisite to redesignation to attainment EPA's full approval of a part D NSR program by Arizona. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully-approved part D NSR program, so long as the program is not relied upon for maintenance. The memorandum further states that once an area has been redesignated to attainment, a part D NSR program must be replaced by the Prevention of Significant Deterioration (PSD) program. The TAPA has not relied on an NSR program for CO sources to maintain. In 1994 EPA delegated authority to Pima County to implement and enforce the Federal PSD program. See FR 49 26129 (May 19, 1994). Because the TAPA is being redesignated to attainment by this action, Pima County's PSD requirements will be applicable to new or modified major sources of CO in the TAPA.

¹ "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, director, Air Quality Management Division, September 4, 1992.

² "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992.

"State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992", Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

²The EPA approval was later vacated by an Order of the Ninth Circuit Court of Appeals on March 1, 1990 in *Delaney v. EPA*, 898 f.2d 687 (9th Cir. 1990) which directed EPA to disapprove the Arizona CO SIP and to promulgate a Federal Implementation Plan (FIP) by January 28, 1991. In response to the court order, EPA promulgated the Arizona FIP on January 28, 1991 and, at the same time, took action to restore as approved parts of the Arizona SIP, the individual control measures vacated by the Ninth Circuit in the *Delaney* order. EPA took final action on February 11, 1991 to disapprove only the attainment demonstration portions of the Maricopa Association of Governments (MAG) and Pima plans, rather than the individual control measures, and to promulgate a FIP for those areas. See FR 56 5459 (February 11, 1991). In May 1998 Congress passed the FY 1998 Supplemental Appropriations Bill, Public Law 105-174 (Title III, Chapter 8) which contains an amendment providing that no requirements set forth in any CO FIP that are based on the CAA as in effect prior to the 1990 amendments to such Act may be imposed in the State of Arizona.

Monitoring Requirements: Pima County operates a monitoring network that has been approved by EPA in accordance with 40 CFR part 58. The area has committed to continue to maintain that network. For a further discussion of the monitoring network, the reader is referred to Section III.4.c. below.

EPA therefore proposes to approve Arizona's SIP for the TAPA as meeting the requirements of section 110 and Part D of the 1977 Act as amended.

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

Under the pre-amended Act, EPA approved Arizona's SIP control strategy for the TAPA nonattainment area, which satisfies the requirement that the rules are permanent and enforceable. The control measures contained in the TAPA maintenance plan are currently mandated by federal and state statutes and include the Federal Motor Vehicle Control Program, the State Inspection and Maintenance program, and the State Oxyfuels program. The TAPA has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn.

4. Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems.

On October 6, 1995 EPA issued guidance³ regarding a limited maintenance plan (LMP) option for nonclassifiable CO nonattainment areas. To qualify for the LMP option, the CO design value for the area, based on the 8 consecutive quarters (2 years of data)

used to demonstrate attainment, must be at or below 7.65 parts per million (ppm), (85 percent of exceedance levels of the CO NAAQS). The design value is the highest of the second highest eight-hour concentrations observed at any site in the area and is the value on which the determination of attainment or nonattainment is based. Additionally, the design value for the area must continue to be at or below 7.65 ppm until the time of final EPA action on the redesignation. Based on the data for 1993 to 1995 contained in Table I of the TAPA Maintenance Plan, the design value for the TAPA is 6.5 ppm. Additionally, based on data retrieved from AIRS, there have been no exceedances of the CO standard from 1995 to the present. Since the TAPA has been classified by operation of law as nonattainment not classified, and has not exceeded the primary NAAQS standard for CO in either year for the 2-year period from 1993 through 1995, the area meets the qualifications for the LMP option.

According to EPA guidance, the LMP must contain: 1. an attainment inventory to identify a level of emissions in the area which is sufficient to attain the NAAQS, 2. provision for continued operation of an appropriate, EPA-approved air quality monitoring network in accordance with 40 CFR part 58 and verification of continued attainment, and 3. contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of the area. The maintenance demonstration requirement is considered to be satisfied for a nonclassifiable area if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (7.65 ppm or 85% of the CO NAAQS). There is no requirement to project emissions over the maintenance period. EPA believes if the area begins the maintenance period at or below 85 percent of exceedance levels, the monitored air quality, along with the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the initial 10-year maintenance period.

With regard to conformity determinations under LMPs, there is no emissions budget requirement. Therefore the budget test for transportation conformity required in 40 CFR 93.118, 93.119, and 93.120 of the Transportation Conformity rule does not apply. Similarly, the budget test for general conformity specified in 40 CFR 93.1589(a)(5)(i)(A) of the General

Conformity rule does not apply in LMP areas.

EPA is proposing to approve the State's maintenance plan for the TAPA because EPA finds that the District's submittal meets the requirements of section 175A and the guidance provided by EPA for the LMP option. Each of the requirements is discussed below:

a. Attainment Emissions Inventory

On October 6, 1997 as part of the limited maintenance plan, the State of Arizona submitted to EPA for review and approval a 1994 base year inventory of CO emissions in Pima County. The inventory concentrates only on the nonattainment portion of Pima County which comprises the TAPA. Over 90 percent of Pima County's population, business activity and air pollutant emissions are concentrated in that area. The inventory includes stationary point sources, stationary area sources, on-road mobile sources, and nonroad mobile sources of CO emissions using 1994 as the base year for calculations to demonstrate maintenance. The Inventory indicates that EPA's MOBILE5 was used to estimate mobile source emissions. The inventory indicates that, on a typical winter day, total CO emissions for on-road mobile sources amounted to 261.36 tons per day or 66.77 per cent of total CO emissions for that day. Residential wood combustion and wildfires were the largest non-mobile annual source categories in 1994.

The inventory meets the requirement of the LMP that emissions inventories should represent emissions during the time period associated with the monitoring data showing attainment and should be based on actual "typical winter day" emissions of CO. EPA is proposing approval of the Pima County 1994 base year CO emission inventory. For further details on the TAPA Emissions Inventory, the reader is referred to Attachment A. of the Technical Support Document, which is available for review at the addresses provided above.

b. Demonstration of Maintenance

The LMP guidance described in Section 4 above states that the maintenance demonstration requirement is considered to be satisfied for nonclassifiable areas if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (7.65 ppm or 85% of the CO NAAQS). Based on the data contained in Table I of the TAPA Maintenance Plan, the design value for the TAPA is 6.5 ppm. According to the LMP guidance, there is no requirement

³Memorandum entitled "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas", from Joseph W. Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality Planning and Standards, US EPA, Research Triangle Park, North Carolina, October 6, 1995.

to project emissions over the maintenance period. EPA believes if the area begins the maintenance period at or below 85 percent of exceedance levels, the air quality, along with the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the initial 10-year maintenance period.

c. Monitoring Network/Verification of Continued Attainment

The LMP option requires that the maintenance plan contain provisions for continued operation of an appropriate, EPA approved air quality monitoring network, in accordance with 40 CFR part 58. The TAPA monitoring network has been approved by EPA, in accordance with 40 CFR part 58 and the area has committed to continue to maintain that network. For further details on monitoring, the reader is referred Attachment B of the Technical Support Document, which is available for review at the addresses provided above.

d. Contingency Plan

The level of CO emissions in the TAPA will largely determine the area's ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS based upon some unforeseeable condition. In order to meet this challenge, the CAA (Section 175A) requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. Under the provisions of the LMP option, contingency measures do not have to be fully adopted at the time of redesignation. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. The contingency plan contained in the TAPA maintenance plan includes triggering mechanisms to determine when contingency measures are needed, the evaluation process that will be conducted, specific control measures and a schedule for implementation in the event of a future CO air quality problem.

Pre-violation Action Level: The PAG has selected two verified 8-hour average concentrations in excess of 85% of the CO NAAQS at any one monitor site in any CO season (October through March) as the pre-violation action level. If the

pre-violation action level is reached at one monitor station during the CO season, PAG will review the most recent microscale modeling at known hot-spot locations and conduct field studies at hot spot locations most likely to have high CO concentrations. If the event is the result of monitored emissions from an identified hot spot, local mitigation measures will be assessed first. If local transportation system improvements at that hot-spot location can be implemented promptly, and will fully mitigate the problem, that action will be recommended to the appropriate jurisdiction by the PAG Regional Council. The local transportation system improvements are part of a Mobility Management Plan adopted by the PAG which includes a congestion mitigation strategy to implement traffic operations improvements such as the installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, roadway channelization, and intersection improvement. All of the jurisdictions within the PAG have adopted resolutions containing commitments to implement appropriate transportation improvements contained in the PAG's Mobility Management Plan within their jurisdictions in accordance with the procedures set forth in the Plan. The local jurisdictions include the town of Oro Valley, Arizona (Resolution No. (R) 96-38, adopted June 5, 1996), the City of South Tucson (Resolution No. 96-16, adopted June 10, 1996), Pima County (Resolution and Order No. 1996-120, adopted June 18, 1996), the City of Tucson (Resolution No. 17319, adopted June 24, 1996), and the town of Marana, Arizona (Resolution No. 96-55, adopted June 18, 1996).

If the cause of the problem is common to a number of hot spots, or is area wide, a general control measure, i.e., increasing the oxygen content in motor vehicle fuels during the oxyfuels season (October through March) up to the practical limit will be implemented as needed to prevent future CO NAAQS violations in accordance with A.R.S. 41-2125 as amended in 1996. That statute provides for an incremental increase in the oxygen content during the oxyfuels season up to the practical limit (3.5% for 100% ethanol oxygenate, 2.7% for Methyl Tertiary Butyl Ether (MTBE) in no less than 0.3% increments). The Plan states that a monitored exceedance of the CO NAAQS (one verified ambient CO level over 9.5 ppm for an 8-hour period) at any monitor will trigger the same process described above.

In the event of a violation of the CO NAAQS, the Director of ADEQ is authorized, in accordance with provisions of A.R.S. 41-2122, as amended in 1996, to reduce the maximum volatility of gasoline sold in the Tucson vehicle emissions control area setting a maximum winter Reid Vapor Pressure (RVP) at 9 pounds per square inch (psi) with an ethanol waiver of 1 psi, or, if a violation of the CO NAAQS is recorded after the volatility requirements have been reduced to 9 psi, the Director of ADEQ shall remove the one pound psi waiver for gasoline-ethanol blends.

The 1996 amendments to A.R.S. 41-2083, 41-2122 and 41-205 were submitted as SIP revisions by the TAPA on October 6, 1997, as part of its limited maintenance plan. The submittal indicated that a public hearing was held on August 20, 1997 on these amendments as well as the amendments that had been made to the 1996 LMP.

EPA in this notice is proposing to approve the amendments to A.R.S. 41-2083, 41-2122 and 41-205 as a revision to the Arizona SIP.

For a full description of the control measures and schedule of implementation, the reader is referred to the Technical Support Document which is available for review at the addresses given above.

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

IV. Proposed Action

EPA is proposing to approve the TAPA CO maintenance plan because it meets the requirements set forth in section 175A of the CAA and the requirements of the LMP option contained in EPA guidance of October 6, 1995.

In this action, EPA is proposing to approve the Emissions Inventory for the base year 1994 contained in the LMP as meeting the requirements of Section 172(c)(3) of the CAA.

EPA is also proposing to approve the amendments to State Legislation A.R.S. 41-2083, 2122, and 2125 relating to the State's oxyfuels program in Area B, the Tucson area, including standards for liquid fuels (A.R.S. 41-2083), standards for oxygenated fuel, volatility exemptions (A.R.S. 41-2122) and oxygen content in the sale of gasoline (A.R.S. 2125) as control measures in the maintenance plan to be implemented in the event of a probable or actual violation of the CO NAAQS in the

TAPA. EPA is simultaneously proposing to approve the amendments to A.R.S. 2083, 2122 and 2125, which were included as part of the LMP, following a public hearing on August 20, 1997, as a revision to the Arizona SIP.

EPA is proposing in this notice to approve Arizona's request for redesignation to attainment for the TAPA area if, prior to that action, ADEQ submits a SIP revision containing the amendments that were made to A.R.S. 49-406 providing for the inclusion of attainment areas, as well as nonattainment areas, in the legislation providing county and state assurances that emission control measure commitments in the nonattainment area plan would be fully implemented as required by Section 110(a)(2)(E) of the CAA.

EPA is soliciting public comments on this document and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the federal rule making procedure by submitting written comments to the person and address listed in the ADDRESSES section at the beginning of this document.

V. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

This proposed rule is not subject to E.O. 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks, because it is not an "economically significant" action under E.O. 12866 and because it does not involve decisions on environmental health or safety risk.

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.

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. SIP approvals under sections 110 and

301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve the requirements that the State is already imposing. Therefore, the Administrator certifies that the approval of the SIP revisions and redesignation will not affect a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base Agency actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

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 the 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 by the rule.

EPA has determined that this proposed approval action 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 13, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 98-19519 Filed 7-21-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS-62156A; FRL-6017-4]

RIN 2070-AC63

Identification of Dangerous Levels of Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is extending the comment period for a proposed rule to establish standards for lead-based paint hazards in most pre-1978 housing and child-occupied facilities under authority of TSCA section 403. The proposed rule also establishes, under authority of TSCA section 402, residential lead dust cleanup levels and amendments to dust and soil sampling requirements and, under authority of TSCA section 404, amendments to State program authorization requirements.

DATES: Written comments in response to this proposed rule must be received on or before October 1, 1998.

ADDRESSES: Each comment must bear the docket control number OPPTS-62156. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three copies, sanitized of any comments containing information claimed as CBI, must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information, any portion of which they believe is entitled to treatment as CBI by EPA, must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

If requested, EPA will schedule public meetings where oral comments will be heard. EPA will announce in the