81.530). Therefore, in order to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and is subject to requirements of subpart 2 of part D.

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

Under section 172(b), the Administrator established that States containing nonattainment areas shall submit a plan or plan revision meeting the applicable requirements of section 172(c) no later than three years after an area is designated as nonattainment, i.e., unless EPA establishes an earlier date. EPA has determined that the section 172(c)(2) reasonable further progress (RFP) requirement (with parallel requirements for a moderate ozone nonattainment area under subpart 2 of part D, due November 15, 1993) was not applicable as the State of Florida submitted this redesignation request on November 8, 1993. Also the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures (RACM) beyond what may already be required in the SIP are no longer necessary, since no earlier date was set for these measures and as RFP was not due until November 15, 1993.

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

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

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

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

Section 176(c) of the CAA requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16,

EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62118) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to 40 CFR 51.396 of the transportation conformity rule and 40 CFR 51.851 of the general conformity rule, the State of Florida is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, the State of Florida is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals did not come due until after the submission of the redesignation request for Southeast Florida, they are not applicable requirements under section 107(d)(3)(E)(v) and, therefore, do not

affect the approval of this redesignation request.

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

Southeast Florida is a moderate ozone nonattainment area. Under subpart 2 of part D. such areas must meet the requirements for marginal areas under section 182(a)(1) as well as the requirements for moderate areas contained in section 182(b). As discussed above, for purposes of this redesignation, the Southeast Florida area need only meet those requirements of section 182(a) and (b) that came due prior to or at the time of the submittal of a complete redesignation request (which was November 8, 1993, in this instance). Section 182(b)(1) of the CAA required states to submit a revision to the SIP by November 15, 1993, to provide for volatile organic compound (VOC) emission reductions by November 15, 1996, of at least 15% from baseline emissions accounting for any growth in emissions after the date of enactment of the CAA. The State failed to submit the required revisions and as a result, on January 28, 1994, EPA issued a finding letter notifying Florida of a finding of failure to submit. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the Federal İmplementation Plan (FIP) 15% regulations for this area as required by section 110(c)(1). However, the letter acknowledges the submittal of this redesignation request to attainment and stated that if the redesignation request to attainment is approved then requirements for a 15% plan SIP will be unnecessary for the Southeast Florida area. Therefore, upon approval of this redesignation request, the sanctions and FIP clocks will stop. As the requirement to submit a 15% plan did not come due until November 15, 1993, the 15% plan requirement is not an applicable requirement for purposes of the evaluation of this redesignation request. EPA has analyzed the SIP and determined that Florida has met all applicable 182(a) and (b) requirements for redesignation.

## a. Emissions Inventory

Section 182(a)(1) of the CAA required an inventory of all actual emissions from all sources to be submitted by November 15, 1992. As described below, the State has submitted such an