percent of air toxic emissions, and that refueling automobiles is the most significant source of benzene exposure for the average person. As proposed, the redesignation would finally eliminate Stage II vapor recovery from the SIP. An improved I/M program was expected to account for reductions of 61.6 TPD or nearly half of the 15 percent ROP. The commentor adds that these 15 percent ROP measures may be contingency measures in the maintenance plan, rather than immediately required at any point in the future. Nevertheless, any such transfer of a maintenance measure in the SIP to a contingency measure, to be required only if certain triggering events occurred, must be accompanied by a demonstration that the SIP measures are no longer necessary for maintenance. Any proposed transfer and demonstration of justification of the transfer must be subject to public notice and comment, as required by the Act.

USEPA Response

Air toxic emissions or benzene exposure are not relevant to this rulemaking since it pertains to an ozone redesignation. Moreover, this redesignation in no way exempts the area from the air toxics requirements of section 112 or other provisions of the Act.

Since the area was able to demonstrate maintenance through an emissions projection analysis showing that future VOC and NO_X emissions will remain below the attainment year level of emissions (the level of emissions sufficient to attain the NAAQS), the USEPA concludes that currently required and future mandated control programs (e.g., FMVCP) are sufficient to provide for attainment and maintenance of the NAAQS. However, contingency measures in the maintenance plan are required in accordance with section 175A(d). The maintenance plan for the Detroit-Ann Arbor area contains contingency measures which would be implemented when triggered by a violation of the ozone NAAQS. USEPA guidance allows the transfer of SIP measures which came due prior to submittal of a complete redesignation request to the maintenance plan as contingency measures if the area demonstrates attainment without implementation of these measures and therefore, are unnecessary for attainment. The State has adequately demonstrated that maintenance will occur in the absence of the implementation of the measures cited by the commentor. Finally, the demonstration for the transfer was subject to public notice and comment during Michigan's public comment

period and hearing, as well as the USEPA's comment period, as required by the Act.

Comment

One commentor notes that to be effective at restoring air quality when a post-redesignation violation occurs, contingency measures must include measures in the 15 percent ROP plan. In elaborating, the commentor notes that a contingency plan which lacks a program for enhanced I/M, Stage II and conformity is an empty box with no benefits. The precedent of 'grandparenting' in moderate areas by allowing redesignation without requiring inclusion of the attainment plan's 15 percent plan as a contingency measure in the maintenance plan is a dangerous precedent for Region 5 to set. It has the potential to result in the gutting of the Act nationwide by a seemingly innocuous rulemaking at the Regional level.

It is unclear that the verification and tracking measures described at 59 FR 37199 (July 21, 1994) will ever actually trigger the requirement to implement the contingency plan.

USEPA Response

The contingency plan contains, as contingency measures, all of the unimplemented SIP control measures that were required prior to submittal of the complete redesignation request, including basic I/M, Stage II, Stage I expansion, and NO_X RACT. As noted in the proposal, Stage II is no longer a required measure due to the USEPA's promulgation of on-board vapor recovery requirements. In addition, the State has also included 7.8 RVP 12 and intensified degreasing for degreasing operations 13 as contingency measures. The USEPA does not believe that this contingency plan is an "empty box with no benefits" instead that the contingency measures in the plan would provide very real benefits in terms of potential emission reductions that the USEPA believes are adequate to deal with potential future violations. The area is not required to include all measures from its 15 percent plan in its contingency plan since the 15 percent plan was not an applicable requirement at the time the State submitted a complete redesignation request.

In addition, Region 5 is not setting a precedent of "grandparenting" of the 15 percent ROP requirement as contingency measures in the maintenance plan. This is consistent with national policy that has already been established and has been discussed above. See September Calcagni and September Shapiro memorandums.

Regarding transportation conformity, once redesignated, the Detroit-Ann Arbor area will be a maintenance area and, therefore, required to conduct emission analyses to determine whether the VOC and NO_X emissions remain below the motor vehicle emission budget established in the maintenance plan. The July 21, 1994 proposal (59 FR 37190) does address conformity with respect to the redesignation on p. 37196. The proposal further discusses that, although conformity is applicable in these areas, since the deadline for submittal had not come due for these rules, the approval of the redesignation is not contingent on these submittals to comply with section 107(d)(3)(E)(v). However, transportation and general conformity apply to maintenance areas and therefore, the Detroit-Ann Arbor area must comply with these rules once redesignated to attainment. The June 17, 1994 Conformity General Preamble (59 FR 31238) to the conformity regulations further clarifies this issue. According to the conformity rules and preamble, the Detroit-Ann Arbor area's conformity test will be to remain within the VOC and NO_X budgets established in the section 175A maintenance plan.

The July 21, 1994 notice does describe a tracking plan for updating the emission inventory. As discussed, the redesignation request commits Michigan to conduct periodic inventories every 3 years, provides a schedule for these submittals, and lists the types of factors used in projecting the emission inventories. The State notes that if the factors change substantially, the State would reproject emissions for the maintenance period to determine whether apparent increases in emissions are due to changes in calculation techniques or actual emissions. Although these periodic emission inventories are not a mechanism to trigger implementation of contingency measures, if the periodic inventories exceed the attainment level of emissions in the maintenance plan, the USEPA may issue a SIP call to the area under section 110(k)(5) on the basis that the State made inadequate assumptions in projecting the inventory used to demonstrate maintenance. In this event, the USEPA may require the State to correct the projection inventory and, if increases are projected, propose and

¹² Lower RVP to 7.8 psi may only be implemented as a contingency measure if the State submits and the USEPA finds, under section 211(c)(4)(C) of the Act, that the lower RVP requirement is necessary for the area to achieve the ozone NAAQS.

¹³ Intensified RACT for degreasing operations would entail requiring more stringent controls than are currently specified in Michigan Rules 611, 612, 613, and 614.