

is based upon three years of complete, quality assured ambient air monitoring data for the years 1992, 1993, and 1994 that demonstrate that the ozone NAAQS has been attained in this area. On the basis of this determination, EPA is also determining that certain reasonable further progress and attainment demonstration requirements, along with certain other related requirements, of Part D of Title I of the Clean Air Act are not applicable to the area for so long as the area continues to attain the ozone NAAQS. Also, in the proposed rules section of this **Federal Register**, EPA is proposing these determinations and soliciting public comment on them. If adverse comments are received on this direct final rule, EPA will withdraw this final rule and address these comments in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**.

EFFECTIVE DATES: This action will be effective July 24, 1995 unless written adverse comments are received by July 10, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: A copy of the air quality data and EPA's analysis are available for inspection at the following address: United States Environmental Protection Agency, Region 8, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2466.

Written comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch (8ART-AP), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Programs Branch (8ART-AP), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466 Phone: (303) 293-1814.

SUPPLEMENTARY INFORMATION:

I. Background

Subpart 2 of Part D of Title I of the Clean Air Act (CAA) contains various air quality planning and State Implementation Plan (SIP) submission requirements for ozone nonattainment areas. EPA believes it is reasonable to interpret provisions regarding reasonable further progress (RFP) and attainment demonstrations, along with certain other related provisions, so as not to require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (i.e., attainment of the NAAQS demonstrated with three consecutive years of

complete, quality assured air quality monitoring data). As described below, EPA has previously interpreted the general provisions of subpart 1 of part D of Title I (sections 171 and 172) so as not to require the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures. As explained in a memorandum dated May 10, 1995, from John Seitz, Director, Office of Air Quality and Planning Standards, to the Regional Air Division Directors, entitled "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard", EPA believes it is appropriate to interpret the more specific RFP, attainment demonstration and related provisions of subpart 2 in the same manner.

First, with respect to RFP, section 171(1) of the CAA states that, for purposes of part D of Title I, RFP "means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." Thus, whether dealing with the general RFP requirement of section 172(c)(2), or the more specific RFP requirements of subpart 2 for classified ozone nonattainment areas (such as the 15 percent plan requirement of section 182(b)(1)), the stated purpose of RFP is to ensure attainment by the applicable attainment date.¹ If an area has in fact attained the standard, the stated purpose of the RFP requirement will have already been fulfilled and EPA does not believe that the area need submit revisions providing for the further emission reductions described in the RFP provisions of section 182(b)(1).

EPA notes that it took this view with respect to the general RFP requirement of section 172(c)(2) in the General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498 dated April 16, 1992), and it is now extending that interpretation to the specific provisions of subpart 2. In the General Preamble, EPA stated, in the context of a discussion of the requirements

applicable to the evaluation of requests to redesignate nonattainment areas to attainment, that the "requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point." (57 FR at 13564.)²

Second, with respect to the attainment demonstration requirements of section 182(b)(1), an analogous rationale leads to the same result. Section 182(b)(1) requires that the plan provide for "such specific annual reductions in emissions . . . as necessary to attain the national primary ambient air quality standard by the attainment date applicable under this Act." As with the RFP requirements, if an area has in fact monitored attainment of the standard, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I, as EPA stated there that no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since "attainment will have been reached." (57 FR at 13564; *see also* the September 4, 1992, John Calcagni memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" at page 6.) Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Similar reasoning applies to other related provisions of subpart 2. The first of these are the contingency measure requirements of section 172(c)(9). EPA has previously interpreted the contingency measure requirement of section 172(c)(9) as no longer being applicable once an area has attained the standard since those "contingency measures are directed at ensuring RFP and attainment by the applicable date." (57 FR at 13564; *see also* the September 4, 1992, John Calcagni memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" at page 6.)

¹ EPA notes that paragraph (1) of subsection 182(b) is entitled "PLAN PROVISIONS FOR REASONABLE FURTHER PROGRESS" and that subparagraph (B) of paragraph 182(c)(2) is entitled "REASONABLE FURTHER PROGRESS DEMONSTRATION," thereby making it clear that both the 15 percent plan requirement of section 182(b)(1) and the 3 percent per year requirement of section 182(c)(2) are specific varieties of RFP requirements.

² *See also* "Procedures for Processing Requests to Redesignate Areas to Attainment," from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, September 4, 1992, at page 6 (stating that the "requirements for reasonable further progress . . . will not apply for redesignations because they only have meaning for areas not attaining the standard").