

entities. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The 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).

By action dated December 20, 1994, the EPA Administrator delegated to the Regional Administrators the authority to determine whether ozone nonattainment areas attained the NAAQS. The Office of Management and Budget has exempted this action from

review under Executive Order 12866. The Regional Administrator's decision to reclassify the Hampton Roads ozone nonattainment area from marginal to moderate is based on whether it has attained the NAAQS by its attainment date, pursuant to section 181 of the Act.

#### List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: January 5, 1995.

**Peter H. Kostmayer**,  
Regional Administrator.

40 CFR part 81 is amended as follows:

#### VIRGINIA—OZONE

#### PART 81—[AMENDED]

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

**Authority:** 42 U.S.C. 7401–7671q.

2. In § 81.347 the “Virginia-Ozone” table is amended by revising the entry for “Norfolk-Virginia Beach-Newport News (Hampton Roads) Area” and all of the subentries to read as follows:

#### § 81.347 Virginia.

\* \* \* \* \*

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Norfolk-Virginia Beach-Newport News (Hampton Roads) Area:				
Chesapeake .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Hampton .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
James City County .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Newport News .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Norfolk .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Poquoson .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Portsmouth .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Suffolk .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Virginia Beach .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
Williamsburg .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
York County .....	1/6/92	Nonattainment .....	Mar. 20, 1995 <sup>2</sup> .....	Moderate.
* .....	*	*	*	*

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

<sup>2</sup> However, the effective date is November 15, 1990 for the purposes of determining the scope of a “covered area” under section 211(k)(10)(D), opt-in under section 211(k)(6), and the baseline determination of the 15% reduction in volatile organic compounds under section 182(b)(1).

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#### 40 CFR Parts 52 and 81

[TN 132–1–6787; FRL–5133–7]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Tennessee

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On November 12, 1992, the State of Tennessee through the Memphis and Shelby County Health Department (MSCHD), submitted a maintenance plan and a request to redesignate the Memphis and Shelby County area (classified as a marginal nonattainment area) from nonattainment to attainment for ozone (O<sub>3</sub>). The O<sub>3</sub>

nonattainment area specifically consists of Shelby County. Under the Clean Air Act as amended in 1990 (CAA), designations can be changed if sufficient data are available to warrant such changes and the redesignation request satisfies the criteria set forth in the CAA for redesignations. In this action, EPA is approving the State of Tennessee's submittal because it meets the maintenance plan and redesignation requirements. The approved maintenance plan will become a federally enforceable part of the SIP for the Memphis and Shelby County area.

On January 15, 1993, in a letter from Patrick M. Tobin to Governor Ned McWherter, the EPA notified the State of Tennessee that the EPA had made a finding of failure to submit required programs for the nonattainment area. EPA's redesignation of the Memphis and Shelby County area to attainment abrogates those requirements for this area.

**EFFECTIVE DATE:** This final rule is effective February 16, 1995.

**ADDRESSES:** Copies of the redesignation request and the State of Tennessee's submittal are available for public review during normal business hours at the following locations. EPA's technical support document (TSD) is available for public review during normal business hours at the EPA addresses listed below.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street NE, Atlanta, GA 30365.

Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105.