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SUPPLEMENTARY INFORMATION: On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. (Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). Under section 107(d)(1), in conjunction with the Governor of Tennessee, EPA designated the Memphis and Shelby County area as nonattainment because the area violated the O<sub>3</sub> standard during the period from 1987 through 1989. Furthermore, upon designation, the Memphis and Shelby County area was classified as marginal under section 181(a)(1). (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.343.)

The Memphis and Shelby County area more recently has ambient monitoring data that show no violations of the O<sub>3</sub> National Ambient Air Quality Standards (NAAQS), during the period from 1990 through 1992. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on November 12, 1992, the State of Tennessee submitted for parallel processing an O<sub>3</sub> maintenance SIP for the Memphis and Shelby County area and requested redesignation of the area to attainment with respect to the O<sub>3</sub> NAAQS. On May 14, 1993, the MSCHD submitted evidence that a public hearing was held on the requests to redesignate Memphis and Shelby County from nonattainment of the NAAQS for  $O_3$  to attainment of the NAAQS for this pollutant. In addition, there have been no violations reported for the 1993 O<sub>3</sub> season. The revised request for redesignation submittal was approved by the TN Air Pollution Control Board on March 9, 1994. The EPA reviewed this request for revision of the federally approved SIP and found it to be in conformance with the requirements of the 1990 CAA. EPA therefore published a notice to approve the revisions without prior proposal (59 FR 39692, August 4, 1994)

In that final rulemaking, EPA advised the public that the effective date of the action was deferred for 60 days (until October 3, 1994), to provide an opportunity to submit comments. EPA announced that if such comments were received within 30 days (by September 6, 1994), the action would be withdrawn by publishing a subsequent document that would withdraw the final action. All public comments received would then be addressed in a subsequent final rule based on the 59 FR 39692 notice (August 4, 1994) serving as the proposed rule. The EPA also announced that it would not institute a second comment period on this action. Adverse comments were received on the 59 FR 39692 notice (August 4, 1994), prior to the September 6, 1994, deadline. Accordingly, EPA withdrew the direct final notice on October 26, 1994, (59 FR 53741) and is hereby addressing those adverse comments in this final rule.

The commenter, representing the Utah Chapter of the Sierra Club, contends that EPA should not approve the Memphis/Shelby County maintenance plan or the redesignation of the area to attainment for O<sub>3</sub>. The commenter had two specific comments.

*Comment 1:* In the first comment, the commenter states that "EPA is acting contrary to their own guidelines by accepting the acknowledged increase in  $NO_x$  emissions from the baseline 1990 inventory for this area." [Nitrogen Oxides  $(NO_x)$ ] The commenter also believes that "EPA must at the very least firmly adhere to their guidelines for redesignation of areas to attainment and to not allow future emission inventory."

Response to Comment 1: The Agency recognizes the legitimacy of the commenter's first concern. Prior to the publication of the August 4, 1994, Federal Register notice, the Agency considered this particular issue in depth. In the August 4, 1994, notice, in column one, page 39696, it is recognized that the data submitted for 1993 showed a higher level of  $NO_X$ emissions than the base year. However, as also stated in that notice, the Memphis/Shelby County nonattainment area was still in attainment during 1993. All future years' NO<sub>X</sub> emissions data are below the 1993 level, therefore, continued attainment is expected. The projected 1993 emissions closely approximated actual 1993 data. The NO<sub>X</sub> levels projected for 1996 and 1999, although higher than the base year levels, are significantly lower than the 1993 levels, which, as noted previously, did not cause a violation of the standard. The projected levels for 2002 and 2004 are less than the attainment year. The Agency believes that the emissions projections demonstrate that the area will continue to maintain the O3 NAAQS because this area achieved attainment primarily through Volatile Organic Compounds (VOC) controls and reductions. Further VOC projections continue to show a decrease and NO<sub>X</sub> projections show a decrease beyond 1993, a year in which the standard was attained.

*Comment 2:* In the second comment, the commenter expressed concern that "NO<sub>X</sub> emissions in particular are treated

as an insignificant issue" and that, in the assessment of how well the Tennessee proposal meets criteria four (The Air Quality Improvement must be Permanent and Enforceable), "there is no mention of NO<sub>X</sub>" and the

'discussion is only of VOC emissions." Response to Comment 2: EPA has not treated NO<sub>x</sub> emissions as insignificant. EPA has considered NO<sub>X</sub> emissions and their impact fully in reviewing this redesignation request. EPA believes, however, that the emissions projections for NO<sub>X</sub> and VOCs provide an adequate demonstration of maintenance in light of the fact that the Memphis/Shelby County Area continued to attain the ozone standard in 1993 notwithstanding the projected increase of NO<sub>X</sub> emissions in that year. As explained above  $NO_X$ emissions are not projected to increase above 1993 levels; they are projected to decline after 1993 to levels below the 1990 baseline year.

Furthermore, although EPA did not refer to them in the earlier Federal **Register** notice, NO<sub>X</sub> reductions have occurred as a result of the implementation of the federal motor vehicle control program and I/M program in the Memphis/Shelby County Area. Fleet turnover in future years to cleaner vehicles will result in further NO<sub>X</sub> reductions. Most of the reductions that have occurred in the Memphis/ Shelby County area, however, have been VOC reductions and it has been reliance primarily on VOC reductions that is responsible for attainment of the standard in this area.

In addition, EPA notes that, as described in the earlier notice regarding the Memphis redesignation, one of the contingency measures in the contingency plan is the development and implementation of NO<sub>X</sub> requirements for stationary fuel burning sources. Thus, in the event that  $NO_X$ emissions presented a problem during the maintenance period that caused a violation to occur, a NO<sub>X</sub>-specific measure has already been incorporated in the contingency plan. However, it should be noted that the Memphis/ Shelby County area is classified as marginal for O<sub>3</sub> attainment. The CAA does not mandate reductions of NO<sub>X</sub> in marginal nonattainment areas, only in areas classified as moderate and above. Therefore, the Agency cannot require reductions in NO<sub>X</sub> emissions as a requirement for redesignation to attainment for O3 in marginal areas such as Memphis/Shelby County.

Finally, EPA notes that this action does not result in the continued postponement of reductions of  $NO_X$ emissions in this country. This action concerns only the Memphis/Shelby