

County area and, in any event, further NO<sub>x</sub> reductions are projected to occur even in this area.

After additional review of this proposed redesignation in light of the commenter's concerns, the Agency concludes that this area should be redesignated to attainment for ozone.

#### Final Action

In this final action, EPA is approving the Memphis and Shelby County O<sub>3</sub> maintenance plan, including the 1990 base year emission inventory, because it meets the requirements of section 175A. In addition, the EPA is redesignating the Memphis and Shelby County area to attainment for O<sub>3</sub> because the State of Tennessee has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. This action stops the sanctions and federal implementation plan clocks that were triggered for the Memphis and Shelby County area by the January 15, 1993, findings letter.

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The O<sub>3</sub> SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the O<sub>3</sub> NAAQS. This final redesignation should not be interpreted as authorizing the State of Tennessee to delete, alter, or rescind any of the VOC or NO<sub>x</sub> emission limitations and restrictions contained in the approved O<sub>3</sub> SIP. Changes to O<sub>3</sub> SIP VOC regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in a finding of nonimplementation [section 179(a) of the CAA] or in a SIP deficiency call made pursuant to sections 110(a)(2)(H) and 110(k) of the CAA.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare

a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 20, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).)

#### List of Subjects

##### 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

##### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: December 23, 1994.

**Patrick M. Tobin,**

*Acting Regional Administrator.*

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

#### Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(122) to read as follows:

##### § 52.2220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(122) The maintenance plan and emission inventory for the Memphis and Shelby County Area which includes Shelby County and the City of Memphis submitted by the Tennessee Department of Environment and Conservation on November 12, 1992, and March 31, 1994, as part of the Tennessee SIP.

(i) Incorporation by reference.

(A) Amendment to the Original Submittal of Nonregulatory Amendment to State Implementation Plan for Shelby County Redesignation from Nonattainment to Attainment Classification for Ozone submitted March 31, 1994, and prepared by the Memphis and Shelby County Health Department, Pollution Control Section for the Tennessee Department of Conservation. The effective date is March 9, 1994, for the following provisions:

Section I—Requirement One—Air Quality Data Shows Area Meets NAAQS

Section IV—Requirement Four—Maintenance Plan

Attachment F:

Shelby County Emission Projections  
Volatile Organic Compounds  
(Summer Season)

Shelby County Emission Projections  
1990–2004 Nitrogen Oxides  
(Summer Season)

(ii) Other material. None.

#### PART 81—[AMENDED]

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

**Authority:** 42 U.S.C. 7401–7671q.

2. Section 81.343, is amended by revising the attainment status designation table for ozone to read as follows:

##### § 81.343 Tennessee.

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