explained in detail in the June 8, 1995, direct final rule and in the May 10, 1995, memorandum from John Seitz, Director, Office of Air Quality Planning and Standards, referred to in the June 8, 1995, **Federal Register** notice. EPA will not recount that analysis here, but will respond to the arguments presented by the commentors regarding the statutory language and structure of Part D of Title I of the CAA as it relates to EPA's action.

In sum, EPA's legal rationale is based upon the statutory definition of ''reasonable further progress'' in section 171(1), the concept that additional reductions are not needed to attain the standard in an area already attaining the standard, and the language of section 172(c)(9) requiring contingency measures ''if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part.'' As the commentors acknowledge, section 171(1) defines ''reasonable further progress'' as ''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.''

The commentors, however, assert that EPA is ignoring the definition of ''nonattainment area'' in section 171(2). The commentors then proceed to argue that as Part D ozone requirements are linked with the classification under section 181 of areas designated nonattainment for ozone under section 107(d), EPA cannot excuse ozone nonattainment areas from full compliance with section 182 unless all requirements of section 107(d)(3) are met.

In response, EPA first notes that the commentors appear to equate the designation of an area as attainment or nonattainment with the factual issue of whether an area, regardless of its designation, is attaining the standard. These are two distinct issues, however. Title I of the CAA, including Part D, contains provisions that distinguish between the concept of whether an area is attaining a standard and an area's designation as attainment or nonattainment.

Indeed, section 107(d)(3) itself clearly demonstrates the distinction as only one of the five criteria for redesignation of a nonattainment area to attainment is the determination that the area ''has attained the national ambient air quality standard.'' (Section 107(d)(3)((E)(i).) Plainly, the CAA clearly contemplates that there will be areas designated nonattainment that are attaining the standard as there could be a nonattainment area that meets the air quality criterion for redesignation to attainment without satisfying the other criteria. Such an area would need to remain designated nonattainment even though it was attaining the standard.

A provision of Part D that demonstrates the distinction between attaining the standard and the designation of an area as attainment or nonattainment is section 182(f), which authorizes EPA to waive NOx reduction requirements that apply to ozone nonattainment areas by virtue of their designation and classification if EPA determines that the NOx reductions would ''not contribute to attainment of the'' standard. EPA has interpreted and applied this provision on numerous occasions to waive NOx emission reduction requirements for areas that have attained the standard since such reductions in areas that have already attained the standard would not contribute to attainment. *See, e.g.*, 60 FR 3760 (January 19, 1995) (final action on NOx waivers for Toledo and Dayton, Ohio). Thus, that provision clearly contemplates that areas designated nonattainment that have attained the standard may have certain specified requirements waived.

In sum, the CAA clearly does not equate the factual issue of whether an area is attaining the standard with the area's designation status as attainment or nonattainment. It expressly contemplates situations in which areas designated nonattainment may be attaining the standard. Thus, the definition of ''nonattainment area'' in section 171(2), which provides that, for purposes of Part D, a nonattainment area means an area that ''is designated 'nonattainment' with respect to [a particular] pollutant within the meaning of section 107(d)'' does not detract from EPA's interpretation of the language of section 171(1) defining ''reasonable further progress'' requirements in terms of reductions for the purpose of ''ensuring attainment.''

EPA agrees with the commentors' basic conception of the Part D ozone nonattainment area requirements, which is that the classification of an area designated nonattainment for ozone determines the set of requirements of subpart 2 to which the area is subject. For example, areas such as the Salt Lake and Davis Counties area that are classified as moderate pursuant to section 181 are subject to the requirements of section 182(b), while areas that are classified as serious are subject to the requirements of section 182(c).

The question at issue in this rulemaking concerns the substance of some of those requirements. As a general matter, section 182(b)(1) and section 172(c)(9) apply to moderate ozone nonattainment areas. However, in this rulemaking EPA is interpreting section 182(b)(1) and 172(c)(9) such that they do not impose SIP submission requirements on an area classified as a moderate ozone nonattainment area that is attaining the ozone standard for so long as the area continues to attain the standard. This is not a waiver of requirements that by their terms clearly apply; it is a determination that certain requirements are written so as to be operative only if the area is not attaining the standard. If, prior to the redesignation of such an area to attainment, the area violates the ozone NAAQS, that determination will no longer apply. That area, by virtue of its continuing designation and classification as a moderate ozone nonattainment area, will once again be faced with an obligation to submit SIP revisions pursuant to sections 172(c)(9) and 182(b)(1).

Moreover, other requirements of part D that are not written in such a way as to require submissions only if an area is not attaining the standard continue to apply solely by virtue of the area's classification and designation as a moderate ozone nonattainment area. For example, the Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) requirements of section 182(a)(2) and 182(b)(2) apply regardless of whether an area is attaining the standard. Similarly, the requirements of part D new source review (e.g., sections 182(a)(2)(C) and (b)(5)) continue to apply to areas designated nonattainment solely by virtue of their continuing nonattainment designation.

In sum, EPA disagrees with the commentors' view that this rulemaking is a de facto redesignation to attainment without complying with all of the redesignation requirements of section 107(d)(3)(E). The Salt Lake and Davis Counties area remains a moderate ozone nonattainment area and remains subject to the requirements of the CAA applicable to such areas pursuant to sections 172(c) and 182(b). These include requirements such as VOC RACT and part D new source review, whose applicability is linked solely to the area's status as a designated ozone nonattainment area that has been classified as moderate. What EPA is determining is that the SIP submission requirements of section 182(b)(1) regarding 15% reasonable further progress and attainment demonstration