1991 to 1994. Results of the saturation studies of 1993 and 1994 were also reviewed by EPA. EPA expressed concerns regarding the network design during the period 1991 to 1994 and requested that the State make modifications; however, the proposed changes evolved as part of the normal process of network design review. The State took action to address the concerns and modified the network. The ozone standard has not been violated in the Wasatch Front during the period from 1991 to 1994; there have been no exceedances since 1991. It is EPA's position that the State of Utah modified, sited, and operated the ozone monitoring network consistent with 40 CFR Part 58 during those years and that the resulting data can reasonably be relied upon to characterize the ozone attainment status of Salt Lake and Davis Counties.

Comment 4: The Citizens Commission stated that the rulemaking is an abuse of agency discretion and violates sections 172(c)(9), 179(a) and 182(b)(1) of the Act. According to the commentor, EPA may suspend the applicablility of SIP requirements only through a redesignation to attainment pursuant to section 107(d)(3)(E).

Response to Comment 4: For the reasons stated above, in the June 8, 1995, **Federal Register** notice, and in the May 10, 1995, memorandum from John Seitz, the EPA does not believe that the rulemaking violates any section of the CAA. The commentor has not offered any persuasive reasoning for EPA to depart from the rationale spelled out in the previous documents. The EPA believes that since the area has attained the ozone standard, it has achieved the stated purpose of the section 182(b)(1) reasonable further progress and attainment demonstration requirements, as well as the section 172(c)(9) contingency measures requirement. As described above, this action is not a redesignation, nor does it circumvent the requirements for a redesignation under section 107(d)(3)(E).

Comment 5: The Citizens Commission stated that EPA's action is not a reasonable interpretation of EPA's nondiscretionary mandate under section 101(b)(1) to ''protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.''

Response to Comment 5: The EPA disagrees with the commentor's statement that its action violates section 101(b)(1). Section 101(b)(1) does not establish a nondiscretionary duty; it is a statement of purpose—a purpose that EPA is not disregarding in this action. The area has attained the primary ozone standard, a standard designed to protect public health with an adequate margin of safety (*see* section 109(b)(1)). EPA's action does not relax any of the requirements that have led to the attainment of the standard. Rather, its action has the effect of suspending requirements, for additional pollution reductions, above and beyond those that have resulted in the attainment of the health-based standard.

Comment 6: The Citizens Commission asserts that EPA's action violates the Administrative Procedure Act and the CAA through its reliance on unpublished memoranda and the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992). According to the commentor, reliance on those documents is inappropriate and illegal since those documents were issued without opportunity for notice and comment and are not enforceable regulations. The commentor also states that EPA's action is barren of any statement of legal authority.

Response to Comment 6: EPA's reference to and reliance on those documents, all of which are either published or publicly available and a part of the record of this rulemaking, is in no way illegal under provisions of either the CAA or the Administrative Procedures Act. (The commentor cited no specific provisions of either act.) EPA agrees that such documents do not establish enforceable regulations; they do not purport to be anything but guidance. That is precisely why EPA has performed this rulemaking—a notice-and-comment rulemaking to take comment on its statutory interpretations and factual determinations in order to make a binding and enforceable determination regarding the Salt Lake and Davis Counties area. The June 8, 1995, **Federal Register** notices referred to EPA's prior policy memoranda not as binding the Agency to adopt the interpretations being proposed therein, but rather as a useful description of the rationale underlying those proposed interpretations. EPA has explained the legal and factual basis for its rulemaking in the June 8, 1995, **Federal Register** notices and afforded the public a full opportunity to comment on EPA's proposed interpretation and determination fully consistent with the applicable procedural requirements of the Administrative Procedures Act. (The procedural requirements of section 307(d) of the CAA do not apply to this rulemaking since it is not among the rulemakings listed in section 307(d)(1).)

Comment 7: The Citizens Commission states that the suspension of the contingency measure requirement is particularly inappropriate given the dubious adequacy of the monitoring network. According to the commentor, EPA's action threatens to subject citizens to acute ozone episodes to which neither the State nor EPA are likely to be able to respond effectively due to the lack of implemented measures that would otherwise have been required.

Response to Comment 7: The response to Comment 3 above contains EPA's discussion of the adequacy of the monitoring network in the Salt Lake and Davis Counties area. As noted in the response to Comment 2 above, EPA acknowledges the concerns of the commentors regarding the likelihood that additional control measures may not be adopted and implemented as quickly as if EPA continued to require their adoption and submission at this time, but believes that countervailing policy considerations exist. Moreover, EPA notes that additional emission reductions will continue to occur as existing control measures are not being relaxed and the federal motor vehicle control program will continue to produce additional reductions through fleet turnover. As the language quoted by the commentor from EPA's June 8, 1995, **Federal Register** notice indicates, EPA would take individual circumstances into account, which would include the severity of any problems, in establishing the period in which the State would have to address the SIP requirements. EPA believes that it and the State would be able to respond effectively and promptly in the event a violation occurs.

Comment 8: The Citizens Commission states that the Salt Lake and Davis Counties nonattainment area cannot be temporarily redesignated in this manner, especially solely on the basis of marginal air quality data indicating momentary achievement of the standard.

Response to Comment 8: As explained elsewhere in this notice, EPA's action is not a redesignation and is both appropriate and legally justified. Moreover, as explained above, the air quality data underlying the determination is sufficient. Finally, the data are not marginal and do not indicate ''momentary achievement'' of the standard. No exceedances have been monitored over the most recent full 3-year period and only one exceedance was monitored in 1991. Thus, the area has had clean data for an extended period of time during which emission reductions have occurred due to the