of in-county ozone monitoring data showing violations of the 0.12 ppm NAAQS. Accordingly, in this action, the USEPA is correcting this error by correcting the designations for these areas to attainment/unclassifiable.

In order to demonstrate a violation of the ozone NAAQS, the average annual number of expected exceedances of the NAAQS must be greater than 1.0 per calendar year, pursuant to 40 CFR § 50.9. The USEPA reviewed the basis of the original ozone designation for these areas. Ambient air quality monitoring data for ozone was retrieved from the Aerometric Information Retrieval System (AIRS) as well as the docket containing Michigan's 1977 SIP. The USEPA found that of the 23 nonattainment nonclassifiable areas in Michigan, only Ingham, Bay and Genesee Counties had established ambient photochemical oxidant monitors in the mid-1970's. Of these three counties, only Ingham did not record levels of photochemical oxidants above 0.12 ppm to constitute a violation of the NAAQS. The AIRS ozone data report for Michigan is located in the docket for this rulemaking. Therefore, 21 of the nonclassified areas did not violate the 0.12 ppm NAAQS during the years pertinent to the June 2, 1980 final rulemaking. In fact, none of these areas had in-county ozone monitors during these timeframes except for those discussed above.

Furthermore, available in-county monitoring data for some of these areas since 1978 demonstrates that violations of the 0.12 ppm NAAQS have not been recorded in these areas with the exceptions of Allegan and possibly Lenawee counties. Allegan County recorded a violation of the ozone NAAQS in 1990–1991 at a monitor established as a special purpose monitor for the Lake Michigan Ozone Study. Monitoring data collected during 1992-1994 in Allegan County demonstrated attainment of the ozone NAAQS. More recently, preliminary data for 1995 (which has not yet been quality assured) indicates that violations of the ozone NAAQS in Allegan and Lenawee counties have probably occurred in the period 1993-1995. The USEPA believes, however, that this data does not alter the conclusion regarding the erroneous retention of the nonattainment designation for these counties in 1980. If these two areas had been correctly designated as attainment/unclassifiable at that time they would be treated, today, as would any other attainment area that violates the ozone NAAQS. The USEPA is including these two areas in this designation correction and will decide what appropriate actions, if

necessary, should be taken once this preliminary data is quality assured. The USEPA may utilize its authority under section 110 of the Act to require the State to correct the inadequacy of the SIP, or designate such areas to nonattainment pursuant to section 107 to address violations of the ozone NAAQS in areas designated as attainment.

## III. Rulemaking Action

In this action, the USEPA is promulgating a correction to the designation status of the Allegan County (Allegan County), Barry County (Barry County), Battle Creek (Calhoun County), Benton Harbor (Berrien County), Branch County (Branch County), Cass County (Cass County), Gratiot County (Gratiot County), Hillsdale County (Hillsdale County), Huron County (Huron County), Ionia County (Ionia County), Jackson (Jackson County), Kalamazoo (Kalamazoo County), Lapeer County (Lapeer County), Lenawee County (Lenawee County), Montcalm (Montcalm County), Sanilac County (Sanilac County), Shiawassee County (Shiawassee County), St. Joseph County (St. Joseph County), Tuscola County (Tuscola County), and Van Buren County (Van Buren County) nonattainment nonclassified/incomplete data and the Lansing-East Lansing (Clinton County, Eaton County, and Ingham County) nonattainment nonclassified/transitional area to attainment/unclassifiable pursuant to section 110(k)(6). The public should be advised that this action will be effective 60 days from the date of this final rule. However, if notice is received within 30 days that someone submits adverse or critical comments, this action will be withdrawn, and a subsequent final notice will be published that addresses the comments received.

The USEPA is publishing a separate document in today's issue of the **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revisions and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on October 10, 1995, unless the USEPA receives adverse or critical comments by September 7, 1995.

If the USEPA receives comments adverse to or critical of the approval discussed above, the USEPA will withdraw this approval before its effective date by publishing a subsequent **Federal Register** document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking

notice. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the USEPA hereby advises the public that this action will be effective on October 10, 1995.

Under section 307(b)(1) of the Act, 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 October 10, 1995. Filing a petition for reconsideration by the Administrator of this final rule neither affects the finality of this rule for the purposes of judicial review nor extends 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 Act, 42 U.S.C. 7607(b)(2).

Under Executive Order (EO) 12291, the USEPA is required to judge whether an action is "major" and therefore subject to the requirements of a regulatory impact analysis. The Agency has determined that the correction would result in none of the significant adverse economic effects set forth in section 1(b) of the EO as grounds for a finding that an action is "major." The Agency has, therefore, concluded that this action is not a "major" action under EO 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., the USEPA 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, the USEPA 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-forprofit enterprises, and government entities with jurisdiction over populations of less than 50,000. Correction of designation status of these nonattainment areas to attainment under section 110(k)(6) of the Act does not create any new requirements and therefore will not have a significant impact on a substantial number of small entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from