- 3. The area must have a fully approved SIP under section 110(k) of the CAA;
- 4. The air quality improvement must be permanent and enforceable; and
- 5. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA;

The Florida redesignation request for the Duval County area meets the five requirements of section 107(d)(3)(E), noted above. The following is a brief description of how the State has fulfilled each of these requirements. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

## 1. Attainment of the O<sub>3</sub> NAAQS

The Florida request is based on an analysis of quality assured O<sub>3</sub> air quality data which is relevant to the maintenance plan and to the redesignation request. The ambient air O<sub>3</sub> monitoring data for calendar year 1987 through calendar year 1989 show an expected exceedence rate for the O<sub>3</sub> standard of less than 1.0 per year of the O<sub>3</sub> NAAQS in the Duval County area, resulting in a classification of transitional. The most recent ambient O<sub>3</sub> data for the calendar year 1991 through 1993 continued to show an expected exceedence rate of less than 1.0 per year of the O3 NAAQS in the Duval County area. (See 40 CFR 50.9 and appendix H). Because the Duval County area has complete quality-assured data showing no violations of the standard over the most recent consecutive three calendar year period, the Duval County area has met the first statutory criterion of attainment of the O<sub>3</sub> NAAQS. In addition, there have been no ambient air exceedences to date in 1994 for O<sub>3</sub>. Florida has committed to continue monitoring in this area in accordance with 40 CFR part 58.

## 2. Meeting Applicable Requirements of Section 110 and Part D

On May 14, 1981, EPA fully approved Florida's SIP for the Duval County area as meeting the requirements of section 110(a)(2) and part D of the 1977 Act (46 FR 26640). The 1990 Amendments, however, modified section 110(a)(2) and, under part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the Act, EPA has reviewed the SIP to ensure that it contains all measures that were due under the 1990 Amendments prior to or

at the time the State submitted its redesignation request.

## A. Section 110 Requirements

Although section 110 was amended by the 1990 Amendments, the Duval County SIP meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. As to those requirements that were amended, (see 57 FR 27936 and 23939, June 23, 1993), many are duplicative of other requirements of the Act. EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2).

## B. Part D Requirements

Before Duval County may be redesignated to attainment, it also must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a) or table 3 of section 186(a). Subpart 2 requirements, however, are not applicable to transitional areas. The Duval County area was classified as transitional (See 56 FR 56694, codified at 40 CFR § 81.530). Therefore, in order to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and is not subject to the requirements of subpart 2 of part D. EPA interprets section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that became applicable to the subject area prior to or at the time of the submission of the redesignation request. Requirements of the Act that come due subsequent to the submission of the redesignation request continue to be applicable to the area (see section 175Å(c)) and, if the redesignation is disapproved, the state remains obligated to fulfill those requirements.

With the exception of the RACT requirement, for transitional  $O_3$  nonattainment areas that attained the standard as of December 31, 1991, EPA has not determined that the section 172(c) requirements were applicable prior to November 15, 1993. Thus, no section 172(c) requirements other than the RACT requirement are applicable requirements for purposes of this

redesignation. For RACT, EPA has stated that transitional ozone nonattainment areas must correct any enforceability deficiencies in their existing RACT rules prior to being redesignated to attainment. The State corrected all identified deficiencies in the State RACT regulations. The regulations apply in Duval County.

Section 176(c) of the Act requires states to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable state SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. of the Federal Transit Act ("transportation conformity"), as well as to all other Federal Actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, USEPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date [see 57 FR 13498, 13557 (April 16, 1992)].

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 1775A. Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Florida is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Florida is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals have not yet come due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.