

SIP will provide for maintenance for an additional ten years.

### Final Action

In this final action, EPA is approving the nonattainment area's O<sub>3</sub> maintenance plan because it meets the requirements of section 175A. The EPA is redesignating the Paducah nonattainment area to attainment for O<sub>3</sub> because the Commonwealth of Kentucky has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. In addition EPA is approving the 1990 base year emission inventory for the Paducah nonattainment area. 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 Commonwealth of Kentucky 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 both a finding of nonimplementation (section 173(b) of the CAA) and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the CAA.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 10, 1995 unless, by March 9, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not

institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 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 April 10, 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 Act, 42 U.S.C. 7607(b)(2).)

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

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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.

### List of Subjects

#### 40 CFR Part 52

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

#### 40 CFR Part 81

Air pollution control, Hydrocarbons, Carbon monoxide, Nitrogen oxides, National parks, Wilderness areas.

Dated: November 28, 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 S—Kentucky

2. Section 52.920 is amended by adding paragraph (c)(73) to read as follows:

#### § 52.920 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(73) The maintenance plan for the Paducah area which include Livingston and Marshall Counties submitted by the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet on November 13, 1992, November 24, 1992, March 10, 1993, July 16, 1993, March 3, 1994, and August 29, 1994, as part of the Kentucky SIP. The 1990 Baseline Emission Inventory for the Paducah area which include Livingston and Marshall Counties.

(i) Incorporation by reference.

(A) Commonwealth of Kentucky Attainment Demonstration and Ten Year Maintenance Plan for all areas designated Marginal Nonattainment for Ozone. The effective date is January 15, 1993.

(B) Table 6–13 Biogenic Emissions, Livingston County, Kentucky. The effective date is January 15, 1993.

(C) Table 6–14 Biogenic Emissions, Marshall County, Kentucky. The effective date is January 15, 1993.

(ii) Other material.

(A) January 15, 1993, letter from Phillip J. Shepherd, Secretary, Natural Resources and Environmental Protection Cabinet to Patrick Tobin, Acting Regional Administrator, U.S. EPA Region IV.

(B) February 28, 1994, letter from John E. Hornback, Director, Division for Air Quality to Mr. Doug Neeley, Chief, Air Programs Branch.

(C) October 4, 1994, letter from Phillip J. Shepherd, Secretary, Natural Resources and Environmental Protection Cabinet to John H. Hankinson, Regional Administrator, U.S. EPA Region IV.