

simply approve requirements that the state is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 27, 1994.

Patrick M. Tobin,
Acting Regional Administrator.

Part 52, chapter I, title 40 of the 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 K—Florida

2. Section 52.520 is amended by adding paragraph (c)(82) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(82) Revisions to chapter 17-296 and 17-297 of the Florida Administrative Code (FAC) regarding animal crematories and human crematories submitted on October 8, 1992, and December 9, 1993, respectively.

(i) Incorporation by reference.

(A) Amendments to FAC 17-2.600(d) and 17-2.700 and Table 700-1, adopted September 24, 1992.

(B) Amendments to FAC 17-296.200(84), 17-296.401(5), 17-297.330, Table 17-297.330-1 and 17-297.500(7), adopted November 12, 1992.

(ii) Additional information. None.

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[FR Doc. 94-21907 Filed 9-2-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 52 and 81

[WV24-1-6585, WV24-1-6586; FRL-5057-2]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Parkersburg, WV Ozone Nonattainment Area To Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 13, 1992, the West Virginia Department of Commerce, Labor and Environmental Resources; Division of Environmental Protection; Office of Air Quality (WVOAQ) submitted a request to EPA to redesignate the Parkersburg moderate ozone nonattainment area (Wood County) from nonattainment to attainment and also submitted a maintenance plan for the Parkersburg area as a revision to the West Virginia State Implementation Plan (SIP). On June 10, 1994, EPA proposed approval of West Virginia's redesignation request and maintenance plan. No adverse comments were received on the proposal. EPA is approving West Virginia's request to redesignate the Parkersburg moderate ozone nonattainment area from nonattainment to attainment and is approving the maintenance plan submitted by WVOAQ as a revision to the West Virginia SIP because relevant requirements set forth in the Clean Air Act, as amended in 1990, have been met. This action is being taken in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule will become effective on September 6, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Michael Dubowe at (215) 597-1109; Todd Ellsworth at (215) 597-2906

SUPPLEMENTARY INFORMATION: On June 10, 1994 (59 FR 29977), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed that the Parkersburg moderate

ozone nonattainment area be redesignated from nonattainment to attainment and that the maintenance plan submitted by the WVOAQ as a revision to the West Virginia SIP be approved contingent upon West Virginia's submittal of a revision to its maintenance plan's provisions to clarify the procedure for implementation of contingency measures. The formal request for the redesignation of the Parkersburg moderate ozone nonattainment area from nonattainment to attainment and the maintenance plan SIP revision were submitted to EPA by the State of West Virginia on November 13, 1992. Subsequent revisions to the State's maintenance plan were submitted to EPA on February 28, 1994 and August 10, 1994.

Maintenance Plan

West Virginia's August 10, 1994 submittal revised the maintenance plan to clarify the State's enforceable procedures for implementation of contingency measures specified in the maintenance plan. The revision requires that one or more of the "contingency measures" listed and described in the maintenance plan shall be selected within three months after verification of a violation of the ozone national ambient air quality standard. The regulatory measures shall be adopted as emergency rules and implemented within six months after adoption. In accordance with West Virginia law, the provisions of these emergency regulations are fully enforceable. The emergency rule(s), subsequently, will be filed as legislative rule(s) for permanent authorization by the legislature in accordance with West Virginia law.

EPA is approving the State of West Virginia's maintenance plan for the Parkersburg area because EPA finds that West Virginia's submittal meets the requirements of section 175A of the CAA.

Errors and Corrections

The NPR for the Parkersburg redesignation request and maintenance plan SIP revision published in the **Federal Register** on June 10, 1994 (59 FR 29977-29982) contains several errors that are corrected as follows:

Summary. 59 FR 29977. The third sentence of this section reads ". . . West Virginia submitted an update to its November 13, 1994 submittal." The date in this sentence should have read November 13, 1992.

Section I—Background. 59 FR 29977 and 29978. This section states that the Parkersburg area was designated under section 107 of the CAA as an ozone nonattainment area on September 12,

1978 (40 CFR 81.347). It should be noted that in the September 12, 1978 Final Rule the Air Quality Control Region (AQCR) IV (Kanawha County and portions of Fayette County) was the only area designated as an ozone nonattainment area and the remainder of the State, including Parkersburg, was designated as attainment or unclassifiable for the ozone NAAQS. This section further states that West Virginia submitted a SIP projecting attainment by December 31, 1982 and failed to meet the deadline. This statement is incorrect, invalidating the subsequent language referring to Parkersburg as a nonattainment area. The Parkersburg area remained in attainment of the ozone NAAQS until 1988. As a result of calendar year 1988 ambient ozone measurements, EPA notified West Virginia on November 8, 1989 that the State's ozone SIP was inadequate to assure attainment of the ozone NAAQS in several counties including the Parkersburg/Wood County area. As a result of the 1990 amendments to the CAA, Wood County was officially designated as a moderate ozone nonattainment area on January 6, 1991.

Section III. Review of West Virginia's Submittal, subsection 5.B., 59 FR 29980. This section states that "In addition to the continued use of lower RVP gasoline (7.8) . . .". The 7.8 in this sentence should have read 9.0.

This section further states that ". . . emissions projections are dependent upon the implementation of the federal reformulated gasoline program.". This statement is incorrect. West Virginia's maintenance plan did not commit to the use of or rely on credits from the federal reformulated gasoline program.

Other specific requirements of the Parkersburg ozone nonattainment area redesignation request and associated maintenance plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. All of the public comments received on the NPR were positive and in support of EPA's action to approve the redesignation request and maintenance plan.

Final Action

EPA is approving West Virginia's request to redesignate the Parkersburg moderate ozone nonattainment area from nonattainment to attainment because the agency has determined that the provisions of section 107(d)(3)(E) of the CAA for redesignation of nonattainment areas to attainment have been met. In addition, EPA is approving the ozone maintenance plan for the Parkersburg area as a revision to the West Virginia SIP because it meets the requirements of 175A.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, to approve the maintenance plan for the Parkersburg area and to redesignate the Parkersburg ozone nonattainment area to attainment, must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the 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).)

List of Subjects

40 CFR Part 52
 Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.
 40 CFR Part 81
 Air pollution control, National parks, Wilderness areas.

Dated: August 10, 1994.
 W.T. Wisniewski,
 Acting Regional Administrator, Region III.
 Chapter I, title 40 of the 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 XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(31) to read as follows:

§ 52.2520 Identification of plan.

* * * * *
 (c) * * *

(30) The ten year ozone maintenance plan including emission projections and contingency measures for Parkersburg, West Virginia (Wood County) as revised and effective on August 10, 1994 and submitted by the West Virginia Division of Environmental Protection; Office of Air Quality:

- (i) Incorporation by reference.
- (A) The ten year ozone maintenance plan including emission projections and contingency measures for Parkersburg, West Virginia (Wood County) revised and effective on August 10, 1994.

PART 81—[AMENDED]

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart C—Section 107 Attainment Status Designations

4. In § 81.349 the ozone table is amended by revising the entry for "Wood County" to read as follows:

§ 81.349 West Virginia.

WEST VIRGINIA—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Parkersburg/Marietta Area, Wood County.	October 6, 1994	Unclassifiable/Attainment		

¹ This date is November 15, 1990 unless otherwise noted.

[FR Doc. 94-21948 Filed 9-2-94; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[WV23-1-6421a, WV23-2-6422a; FRL-5060-4]

Approval and Promulgation of Air Quality Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Redesignation of the Huntington, WV Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This SIP revision approves a maintenance plan for the Huntington area including contingency measures which provide for continued attainment of the ozone National Ambient Air Quality Standard (NAAQS). The intended effect of this action is to approve a redesignation request and maintenance plan for the Huntington area. This action will also remove any sanctions imposed on the Huntington area under section 179 of the Clean Air Act, as amended in 1990 (the Act). On November 12, 1992, the West Virginia Department of Commerce, Labor and Environmental Resources; Division of Environmental Protection (WVDEP) submitted a request to redesignate the Huntington portion (Cabell and Wayne counties) of the multi-state Huntington-Ashland moderate ozone nonattainment area from nonattainment to attainment. On November 12, 1992, the WVDEP also submitted a maintenance plan for the Huntington area as a revision to the West Virginia State Implementation Plan. On February 22, 1994, and August 10, 1994 WVDEP provided clarifying revisions to its maintenance plan. The Kentucky portion of the Huntington-

Ashland nonattainment area includes Boyd County and a portion of Greenup County. Kentucky's request for redesignation and the maintenance plan for the Ashland, Kentucky portion of the nonattainment area has been submitted to EPA and is the subject of a separate rulemaking document. This action is being taken under sections 107 and 110 of the Act. In this action, EPA is redesignating the Huntington moderate ozone nonattainment area to attainment and is approving the maintenance plan submitted by the WVDEP as a SIP revision to the West Virginia SIP.
DATES: This final rule will become effective October 21, 1994 unless before October 6, 1994 adverse comments are submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Radiation and Toxics Division, U.S. Environmental Protection Agency; Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East Charleston, West Virginia, 25311-2599.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp at (215) 597-8375 or Todd Ellsworth at (215) 597-2906.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990 the Clean Air Act Amendments of 1990 (the Act) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Under section 107(d)(1) of the Act, in

conjunction with the Governor of West Virginia, EPA was required to designate the Huntington area as nonattainment because the area violated the ozone standard in 1987-1989. Under section 107(d)(1)(C), EPA designated Boyd County of Kentucky as nonattainment by operation of law with respect to ozone because the area was designated nonattainment before the date of enactment of the 1990 amendments to the Act. The nonattainment area was expanded to include portions of Greenup County of Kentucky per section 107(d)(1)(A)(i) (See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.318.) Furthermore, the Huntington-Ashland area was classified as a multi-state moderate ozone nonattainment under section 181(a)(1) of the Act. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.349.

Air quality monitored data recorded in the West Virginia portion of the area met the ozone NAAQS from 1989-1991 and has subsequently continued to indicate attainment and maintenance through 1993. West Virginia submitted an ozone maintenance SIP and redesignation request on November 12, 1992. The Kentucky portion attained the ozone NAAQS, based on air quality data from 1991 through 1993. West Virginia submitted a revision to its maintenance plan on February 22, 1994. This revision was done to include ambient monitoring data from 1991-1993 indicating attainment throughout the entire nonattainment area including Kentucky's portion. A second revision to the maintenance plan was provided on August 10, 1994 which clarified the procedures for implementation of the contingency measures of West Virginia's maintenance plan.

II. Review of West Virginia's Submittal

Following is a brief description of how the State of West Virginia's November 12, 1992 submittal along with the additional revisions to the maintenance plan of February 22, 1994 and August 10, 1994 fulfill the five