language permit the FDIC to address the meaning of Section 104(d) for a state bank confronting state laws outside its home state that disadvantage it by putting it in a different legal or competitive position than its national bank or in-state state bank competitors.

The following specific items might be covered in an FDIC rule or statement of policy:

- The rule should state that the Section 104(d) preemption applies to insured banks, and to their subsidiaries, affiliates and associated persons.
- The rule should define a ''person'' to include a depository institution, subsidiary, affiliate, and associated person.
- The rule should state that in view of the breadth of the nondiscrimination requirements stated in Section 104(d) the word ''restrict'' in Section 104(d)(1) is to be read broadly to include any state law, rule, interpretation or action that calls for any limitation or requirement. Any state law that ''restricts'' but is nondiscriminatory under Section 104(d)(4) is not preempted under Section 104(d). By the same token, any state law that ''restricts'' and is discriminatory under Section 104(d)(4) is preempted under Section 104(d).
- The rule should address each of the four nondiscrimination provisions in Section 104(d)(4) to confirm that each is a distinct test and that any state law or action that fails any one test is preempted.
- The rule should address the scope of ''actions'' in Section 104(d)(4) to include all types of formal or informal administrative actions by any state or local governmental entity, including decisions with respect to civil enforcement of state rules.
- The rule should address Section 104(d)(4)(D)(i) in light of the terms used in subparagraph (ii) to specify that subparagraph (i) addresses treatment under state law of an out-of-state insured state bank, which is plainly an ''insured depository institution,'' that is different from the treatment of any national bank or in-state state bank and banks, which is an ''other person engaged in the same activity'' under these provisions. It should also specify that this discrimination can take various forms, including state laws, rules, or ''actions'' that treat out-of-state state banks or their subsidiaries differently from in-state or federal institutions, whether expressly (*e.g.*, through a state law exemption for federal institutions, but not out-of-state state banks insured institutions), by operation of law (*e.g.*, when state law is preempted for national banks or federal thrifts, and federal credit unions, but not for out-of-state state banks), or by an administrative determination to enforce a state rule against an out-of-state state bank or affiliate, but not against a federal entity. The rule could give examples.
- The rule should define ''state law'' to include laws, ordinances, rules, etc. of political subdivisions (including any county, municipality, etc.).

5. The FDIC Should Implement Section 27 of the FDI Act by Adopting a Rule Parallel to the Rules Promulgated by the OCC and OTS

The scope and implementation of the express preemption for the ''interest rate'' charged in interstate lending transactions by state and national banks under Section 27 of the FDI Act and Section 85 of the National Bank Act have been authoritatively addressed by the courts [29] and in agency interpretations.[30] Nevertheless, both the OCC and OTS have adopted rules codifying the scope of the respective statutory provisions. We request that the FDIC adopt parallel provisions by rule so that state banks will operate in a matching legal framework under these parallel statutes.

* * * * *

The Roundtable appreciates the FDIC's consideration of this petition. We recognize that it is very broad and asks the FDIC to undertake a major rulemaking. We believe that such an effort is urgently needed to preserve a strong dual banking system, to maintain safety and soundness, and to ensure that it is attractive to both large and small banks. Such a system is an integral, essential part of the framework for banking in the United States. While we strongly support the development of interstate banking and federal preemption over the last decade, we believe that the modernization of American banking requires a parallel modernization of the state half of the dual banking system. Since the issues concern interstate business and preemption, the needed actions must come at the federal level. As discussed above, we believe that Congress has given the FDIC both the tools and responsibility to address these needs.

The Roundtable and its members stand ready to work with the FDIC and its staff to achieve these important objectives. If you have any further questions or comments, please do not hesitate to contact me or John Beccia at (202) 289–4322.

Sincerely,

Richard M. Whiting,
Executive Director and General Counsel.

cc: Chairman Donald E. Powell, William F. Kroener III, Esq.

[FR Doc. 05–5499 Filed 3–18–05; 8:45]

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addresses ''other persons engaged in the same activity'', while Subparagraph (ii) addresses ''other persons engaged in the same activity that are not depository institutions or affiliates thereof.''

[29] *Greenwood Trust Co.* v. *Mass.*, 971 F.2d 818 (1st Cir. 1992), *Smiley* v. *Citibank*, 517 U.S. 735 (1996).

[30] See FDIC General Counsel Opinions 10 and 11.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AZ131–0078; FRL–7887–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the Arizona Department of Environmental Quality's submittals of revisions to the Arizona state implementation plan that include substitution of the clean fuel fleet program requirement with the cleaner burning gasoline program, adoption of the serious area 1-hour ozone plan, and adoption of the 1-hour ozone maintenance plan for the Phoenix (Arizona) metropolitan 1-hour ozone nonattainment area. We are also proposing to approve Arizona's request to redesignate the Phoenix metropolitan 1-hour ozone nonattainment area from nonattainment to attainment. EPA proposes these actions pursuant to those provisions of the Clean Air Act that obligate the agency to take action on submittals of revisions to state implementation plans and requests for redesignation. In addition, under section 107 of the Clean Air Act, we are proposing to revise the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation. EPA is proposing this last action consistent with the Federal trust responsibility to the Tribes and for the purpose of relieving the Agency or the Gila River Indian Community of the need to promulgate and implement plans and measures for the Community that are not needed for attainment or maintenance of the 1-hour or 8-hour ozone national ambient air quality standard.

DATES: Written comments must be received at the address below on or before April 20, 2005.

ADDRESSES: Formal written comments should be mailed or emailed to Wienke Tax, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, *tax.wienke@epa.gov.* Comments may also be submitted through the **Federal Register** Web site at *http://www.regulations.gov.* We prefer electronic comments.

You can inspect copies of EPA's **Federal Register** document at our Region 9 office during normal business hours (see address above). Due to increased security, we suggest that you call at least 24 hours prior to visiting the Regional Office so that we can make arrangements to have someone meet you. The **Federal Register** document is also available as an electronic file on EPA's Region 9 Web page at *http://www.epa.gov/region09/air.*

You may inspect and copy the rulemaking docket for this notice at the following location during business hours.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the SIP materials are also available for inspection at the address listed below:

Arizona Department of Environmental Quality, 1110 W. Washington Street, First Floor, Phoenix, AZ 85007, Phone: (602) 771–2217.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (520) 622–1622, e-mail: *tax.wienke@epa.gov,* or see *http://www.epa.gov/region09/air.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' mean U.S. EPA.

Table of Contents

I. Summary of Today's Proposed Action

We are proposing to approve, under sections 182(c)(4)(B) and 110(k)(3) of the Clean Air Act (CAA or ''Act''), the State of Arizona's 1998 request to ''opt-out'' of the clean fuel fleet (CFF) program and to approve the cleaner burning gasoline (CBG) program as a substitute measure. We are also proposing to approve, under section 110(k)(3) of the Act, the State's 2000 submittal of the *Final Serious Area Ozone State Implementation Plan for Maricopa County* (''Serious Area Ozone Plan''), which provides a demonstration of compliance with requirements under the Clean Air Act (CAA or ''Act'') for the Phoenix metropolitan ''serious'' 1-hour ozone nonattainment area.

We are also proposing to approve, under sections 107(d)(3)(D) and 110(k)(3), the State's 2004 submittal of the *One-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area* (''Redesignation Request and Maintenance Plan''), which was developed and adopted by the Maricopa Association of Governments (MAG) as meeting CAA requirements for redesignation requests and maintenance plans. EPA is proposing to determine that the Phoenix metropolitan nonattainment area has fully met the requirements for redesignation found at section 107(d)(3)(E) of the CAA for redesignation of an area from nonattainment to attainment for the 1-hour ozone national ambient air quality standard (NAAQS). However, this proposal is contingent upon final approval by EPA of three separate proposed rulemakings involving two Maricopa County rules, a negative declaration, and a set of permit conditions imposing ''reasonably available control technology'' on a specific stationary source. As part of our approval of the maintenance plan, we are proposing to approve the 2006 and 2015 motor vehicle emissions budgets (MVEBs) for VOC and NO_X in the submitted maintenance plan for transportation conformity purposes.

In addition, we are proposing, under section 107(d)(3)(A) of the Act, to revise the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation. This proposed action would add the Maricopa County portion of the Reservation to the current ''unclassifiable/attainment'' area within the State of Arizona for the 1-hour ozone NAAQS. The effect of this action would be to relieve the Agency and the Community of the need to develop and implement plans and measures that are not needed for attainment or maintenance of the 1-hour or 8-hour ozone NAAQS.

II. History of 1-Hour Ozone Planning in the Phoenix Metropolitan Nonattainment Area

Under section 107(d) of the CAA, as amended in 1977, Maricopa County was designated as a 1-hour oxidant (later ozone) nonattainment area in March 1978 (43 FR 8962). Originally, the nonattainment area was county-wide, but EPA later approved a State request to limit the nonattainment area to a subregion within Maricopa County that was defined by the boundaries of the Maricopa Association of Governments' (MAG) Urban Planning Area. See 44 FR 16388, 16393 (March 19, 1979). We refer to this area herein as the ''Phoenix metropolitan 1-hour ozone nonattainment area'' or the ''Phoenix metropolitan nonattainment area,'' and we note that the boundary of this nonattainment area has remained defined by reference to the MAG urban planning area from 1979 through the present time. However, we are proposing today to revise the Phoenix metropolitan 1-hour ozone nonattainment area boundary to exclude the Gila River Indian Reservation (see Section V of this proposed rule).

On November 15, 1990, the CAA Amendments of 1990 were enacted.

Under the Act, as amended in 1990, the Phoenix metropolitan 1-hour ozone nonattainment area remained nonattainment by operation of law, and under section 107(d)(4)(A) of the amended Act, the Phoenix metropolitan nonattainment area was further classified as a ''moderate'' ozone nonattainment area based on ozone monitoring data during the 1987–1989 period. See 56 FR 56694, 56717 (November 6, 1991). Because attainment was not achieved by November 15, 1996 (the CAA attainment date for ''moderate'' ozone nonattainment areas), the Phoenix metropolitan nonattainment area was reclassified to ''serious,'' effective February 13, 1998, with a new attainment date of November 15, 1999. See 62 FR 60001 (November 6, 1997) and 63 FR 7290 (February 13, 1998).

In connection with one of the requirements for ''moderate'' ozone nonattainment areas, the State of Arizona submitted the initial 15 percent Rate of Progress plan (15 percent ROP plan) for the Phoenix metropolitan nonattainment area via the *Maricopa Association of Governments 1993 Ozone Plan for the Maricopa County Area* (November 1993) on November 15, 1993, and an *Addendum* (March 1994) to that plan on April 8, 1994. On April 13, 1994, EPA found the initial plan (including the *Addendum*) incomplete because it failed to include in fully adopted and enforceable form all of the measures relied upon in the 15 percent ROP demonstration. This incompleteness finding started the 18-month sanction clock in CAA section 179 and the two year clock under section 110(c) for EPA to promulgate a federal implementation plan (FIP) covering the 15 percent ROP requirement. Subsequently in November 1994 and April 1995, Arizona submitted an attainment plan for the Phoenix metropolitan nonattainment area which updated the 15 percent ROP demonstration. On May 12, 1995, we found the revised 15 percent ROP plan and the attainment plan complete, turning off the sanctions clock; however, under section 110(c), the FIP clock continued until EPA approved the 15 percent ROP plan.

In August 1996, EPA was sued by the American Lung Association of Arizona, *ALAA* v. *Browner,* No. CIV 96–1856 PHX ROS (D.Ariz.). This case sought to enforce EPA's obligation under CAA section 110(c) to promulgate a FIP for the 15 percent ROP requirement. On July 8, 1997, a consent decree was filed with the U.S. District Court for the District of Arizona establishing a schedule of January 20, 1998 for proposing and May 18, 1998 for promulgating a 15 percent ROP plan. Under the consent decree, EPA's obligation to promulgate a 15 percent ROP plan was relieved to the extent that we had approved State measures. EPA determined in its final rule that the Phoenix metropolitan nonattainment area had in place or would have in place sufficient control measures to meet the 15 percent ROP requirement for volatile organic compounds (VOCs), a precursor emission to ozone, under CAA section 182(b)(1)(A) as soon as practicable. See 63 FR 28898 (May 27, 1998), as amended at 64 FR 36243 (July 6, 1999).

In February 2000, the State of Arizona requested that EPA make a finding that the Phoenix metropolitan nonattainment area had attained the 1-hour ozone NAAQS by the applicable ''serious'' area attainment date of November 15, 1999 based on 1997–1999 ozone monitoring data. In May of 2000, we proposed such a finding (see 65 FR 31859, May 19, 2000) and approximately one year later, we published a final attainment determination for the 1-hour ozone NAAQS. See 66 FR 29230 (May 30, 2001).

On December 7, 1998, in connection with one of the requirements for ''serious'' ozone nonattainment areas, the State submitted to EPA a SIP revision opting out of the Clean Fuel Fleet program requirement and requesting EPA approval of its interim Cleaner Burning Gasoline (CBG) program as a substitute program. On June 7, 1999, the revision was found to be complete by operation of law pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V. In today's notice, we are proposed to approve this request.

On December 14, 2000, the State submitted the *Final Serious Area Ozone State Implementation Plan for Maricopa County* (''Serious Area Ozone Plan'') to EPA as a revision to the Arizona SIP. This plan was found to be complete by operation of law on June 14, 2001. Arizona Department of Environmental Quality (ADEQ) prepared the Serious Area Ozone Plan, and in doing so, anticipated a positive attainment finding for the Phoenix metropolitan nonattainment area based on 1997–1999 ozone monitoring data. The Serious Area Ozone Plan includes a complete emissions inventory for year 1996, and describes the State's compliance with CAA requirements for ''serious'' ozone nonattainment areas, including the requirements for enhanced monitoring. In today's notice, we are proposing to approve the Serious Area Ozone Plan for the Phoenix metropolitan nonattainment area.

In earlier actions, we have already approved revisions to Arizona's Cleaner Burning Gasoline (CBG) program (69 FR 10161, March 4, 2004) and to Arizona's Vehicle Emissions Inspection (VEI) Program (68 FR 2912, January 22, 2003) as well as many of Maricopa County's VOC RACT rules. (The **Federal Register** citations and effective dates for these rules are listed later in this notice in Table 3.) These programs, as revised, are the principal State and local controls relied on in the Serious Area Ozone Plan.

On April 21, 2004, the State submitted the *One-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area* (Redesignation Request and Maintenance Plan) to EPA as a revision to the Arizona SIP. This plan was found to be complete by operation of law on October 21, 2004. The Maricopa Association of Governments (MAG) prepared the Redesignation Request and Maintenance Plan, which relies on continuation of the control measures cited above in connection with the Serious Area Ozone Plan but also includes additional control measures including coordination of traffic signal systems, tougher enforcement of vehicle registration and emission test compliance, development of intelligent transportation systems, and a new Maricopa County rule governing VOC emissions from aerospace manufacturing and rework operations. The plan includes contingency measures to remedy any future violations of the 1-hour ozone NAAQS, and includes VOC and NO_X MVEBs for 2006 and 2015 for the Phoenix metropolitan nonattainment area. In today's notice, we are proposing to approve the Redesignation Request and Maintenance Plan for the Phoenix metropolitan nonattainment area.

Our proposed approvals of the Serious Area Ozone Plan and the Redesignation Request and Maintenance Plan are contingent upon final EPA approval of certain other rulemakings described in more detail later in this notice. EPA notes that the Phoenix-Mesa metropolitan area has been designated nonattainment for the 8-hour ozone NAAQS, and is subject to additional requirements as a result. See 69 FR 23858, 23879 (April 30, 2004). Final approval of this proposal would change the official designation for the 1-hour ozone NAAQS found at 40 CFR part 81 for the Phoenix metropolitan nonattainment area from nonattainment to attainment but would not affect the

8-hour ozone nonattainment area designation for the Phoenix-Mesa area.

III. The CAA's Requirements for Redesignation Requests and Maintenance Plans

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation providing that the following conditions are met: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the State containing such area has met all requirements applicable to the area under section 110 and part D. EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070).

EPA has provided further guidance on processing redesignation requests in the following documents:

- ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas'', Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992 (Helms memo 1992a);
- ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations'', Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992 (Helms memo 1992b);
- ''Procedures for Processing Requests to Redesignate Areas to Attainment'', Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memo 1992a);
- ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines'', Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992 (Calcagni memo 1992b);
- ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992'', Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993 (Shapiro memo);
- ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment'', Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (Nichols memo); and
- ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard'', Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995 (Seitz memo).

IV. EPA's Review of the MAG 1-Hour Ozone Redesignation Request and Maintenance Plan's Compliance With the CAA's Requirements for Ozone Redesignation Requests and Maintenance Plans

EPA believes the State of Arizona has demonstrated that the area meets all of the applicable criteria for redesignation to attainment as specified in Section 107(d)(3)(E) of the CAA.

A. The Area Must Be Attaining the 1-Hour Ozone NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. In this case, the applicable NAAQS is the 1-hour ozone NAAQS.

1. Adequate Monitoring Network

The CAA requires States to establish and operate air monitoring networks to compile data on ambient air quality for all criteria pollutants. See section 110(a)(2)(B)(i) of the Act. Our regulations in 40 CFR part 58 establish specific regulatory requirements for operating air quality surveillance networks to measure ambient concentrations of ozone, including measurement method requirements, network design, quality assurance procedures, and in the case of large urban areas, the minimum number of monitoring sites designated as National Air Monitoring Stations (NAMS).

For this proposed action, we are discussing the adequacy of the Phoenix metropolitan nonattainment area monitoring network to support our finding that the Redesignation Request and Maintenance Plan appropriately evaluates the 1-hour ozone problem in the Phoenix metropolitan nonattainment area. Reliable ambient data are necessary to validate the base year air quality modeling which in turn is necessary to assure a sound maintenance demonstration.

As it existed in the 2000 to 2002 period, the ozone ambient air monitoring network consisted of four National Air Monitoring Stations (NAMS), 14 State and Local Air Monitoring Stations (SLAMS), and three Special Purpose Monitors (SPM) operated by the Maricopa County Environmental Services Department (MCESD) and the Arizona Department of Environmental Quality (ADEQ). Figure 2–1 on page 2–6 in the Redesignation Request and Maintenance Plan lists the names of the sites and their locations in the Phoenix metropolitan nonattainment area. Since the 2000–2002 period, the ozone network has changed, e.g., certain sites have been discontinued while new sites have been added. In the 2002–2004 period, the ozone monitoring network consists of 18 monitoring sites, four designated as NAMS, 12 designated as SLAMS, and two SPMs. These sites all use EPA reference methods, are sited according to our regulations, meet the applicable monitoring objectives in our regulations, and are operated according to our regulations. We therefore find that the monitoring network operated by the MCESD and ADEQ is adequate to support the technical evaluation of ozone maintenance in the Redesignation Request and Maintenance Plan.

2. Attainment of the Standard

For ozone, an area may be considered to be attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and appendix H, based on three complete, consecutive calendar years of quality-assured ambient monitoring data. A violation of the 1-hour ozone NAAQS occurs when the estimated number of exceedances per year averaged over three years is greater than 1.0 at any monitoring site in the area or its downwind environs, using conventional rounding techniques.

The calculation of the estimated exceedances takes into account not only the number of exceedances during a given ozone season, but also completeness of data, and daily peak ozone concentrations on days in the ozone season that can be assumed to be less than the level of the standard. A daily exceedance occurs when the maximum hourly ozone concentration

during a given day is greater than or equal to 0.125 parts per million (ppm), using conventional rounding techniques. Monitoring data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in EPA's Air Quality System (AQS) database.

3. Monitoring Results

MCESD and ADEQ submitted quality-assured ozone monitoring data to EPA for the 1997 to 1999 ozone monitoring seasons. As noted previously, we determined that the Phoenix metropolitan 1-hour ozone nonattainment area had attained the 1-hour ozone NAAQS by the applicable attainment date. See 66 FR 29230 (May 30, 2001). Since then, the Phoenix metropolitan nonattainment area has continued to meet the 1-hour ozone NAAQS, as shown in Table 1.

TABLE 1.—AVERAGE NUMBER OF EXCEEDANCE DAYS PER YEAR AND DESIGN VALUES BY MONITOR IN THE PHOENIX METROPOLITAN OZONE NONATTAINMENT AREA (2000 TO 2004)

Site	SITE type	Average number of exceedance days per year	Site design value (ppm)
Blue Point	NAMS	0	0.110
Central Phoenix	NAMS	0	0.098
Fountain Hills	NAMS	0	0.106
South Scottsdale	NAMS	0	0.099
Tempe	SPM	0	0.098
Falcon Field	SLAMS	0	0.104
Rio Verde	SLAMS	0	0.101
Dysart**	SLAMS	0	0.085
South Phoenix	SLAMS	0	0.091
West Phoenix	SLAMS	0	0.097
Pinnacle Peak	SLAMS	0	0.101
North Phoenix	SLAMS	0	0.105
Glendale	SLAMS	0	0.099
West Chandler	SLAMS	0	0.099
Cave Creek	SPM	0	0.099
Humboldt Mountain	SLAMS	0	0.099
JLG Supersite*	SLAMS	0	0.086
Palo Verde*	SLAMS	0	0.098

Sources: AQS Database and MCESD 2003 Network Review.
*ADEQ Site.
**Site only has data from 2003–2004.

Table 1 also provides design values for each monitoring site. The design value generally represents the 4th highest daily maximum (hourly) ozone concentration over a given three-year period at a given site. Design values provide one basis of comparison between different parts of a given nonattainment area with respect to peak ozone exposure; as such, the design values are provided herein for information purposes only. Attainment of the ozone NAAQS relies on the average number of exceedances per year (the design value is used under the CAA if an area is found to have missed its attainment deadline and must be reclassified).

Based on the monitoring data summarized in Table 1, we propose to determine that the Phoenix metropolitan 1-hour ozone nonattainment area has attained, and continues to attain, the applicable NAAQS and therefore meets the related criterion for redesignation under section 107(d)(3)(E)(i) of the Act.

B. The Area Must Have a Fully Approved SIP Under Section 110(k)

EPA fully approved the ozone SIP for the Phoenix metropolitan nonattainment area that had been required under the CAA, as amended in 1977. See 47 FR 19326 (May 5, 1982) and 40 CFR 52.123(d). With respect to ozone-related SIP requirements under the CAA, as amended in 1990, EPA is proposing action in today's notice to approve the Serious Area Ozone Plan SIP revision for the Phoenix metropolitan serious 1-hour ozone nonattainment area and thereby fulfill the requirements for a periodic inventory for 1996 and enhanced monitoring.

CAA requirements for ozone nonattainment areas are cumulative in that ''serious'' areas must also meet the applicable requirements for the two lesser classifications: ''marginal'' and ''moderate''. Most of the applicable requirements for the Phoenix metropolitan 1-hour ozone nonattainment area, such as the base year 1990 emissions inventory, an enhanced vehicle inspection and maintenance program and various Maricopa County RACT rules, have been fully approved under section 110(k) by EPA in previous rulemakings and our final approval of the Serious Area Ozone Plan will accomplish the same for the 1996 periodic inventory requirement and the enhanced monitoring requirement.

We recognize that there remain several EPA proposed rules that need to be finalized before we can finalize our action described herein. These proposed rules involve Maricopa County (MC) Rule 358, source-specific RACT for W.R. Meadows, the MC rule establishing the emissions statements requirement, and a negative declaration. If, and once, we finalize our approvals of these separate proposed actions and finalize our proposed approval of the Serious Area Ozone Plan, then we will have fully approved the applicable implementation plan for the area under section 110(k) and satisfied the criterion for redesignation under section 107(d)(3)(E)(ii) of the CAA.

C. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions

The improvement in air quality must be due to permanent and enforceable

reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures.

EPA believes that the State has demonstrated that the observed air quality improvements are due to the implementation of permanent and enforceable emission reductions through the implementation of emission controls contained in the Arizona SIP and Federal measures. Subsequent to the 1990 CAA amendments, Arizona implemented a number of emission controls. The area has complied with all of the emission requirements for a serious ozone nonattainment area as required by the CAA.

Some of the emission reductions were achieved through the implementation of the use of low volatility cleaner burning gasoline, more stringent Tier I motor vehicle emission standards, implementation of an enhanced vehicle I/M program, controls on area sources, and the adoption of tighter emissions limits on existing stationary sources. All of the emission control measures contained in the 15 percent ROP plan, serious area ozone plan, and redesignation request and maintenance plan have been fully adopted, have been implemented, and are enforceable in the Phoenix metropolitan nonattainment area. Maricopa County has adopted and implemented emission control rules requiring existing sources of VOC to meet, at minimum, RACT. These requirements apply to sources in categories covered by CTGs and other major non-CTG sources.

Table 2 shows the decrease in emissions between 1990 and 1999 due to permanent and enforceable measures.

TABLE 2.—990 AND 1999 PHOENIX METROPOLITAN NONATTAINMENT AREA VOC AND NO_X EMISSIONS

[Emissions in metric tons per day]

Source category	1990		1999	
	VOC	NO_X	VOC	NO_X
Point Sources	25.6	70.9	15.3	16.5
Area Sources	111.8	7.4	82.6	43.0
On-Road Mobile Sources	136.2	130.1	106.9	129.8
Nonroad Mobile Sources	57.9	85.2	78.5	59.3
Biogenics	37.3	.....	76.7	7.3
Total	368.8	293.6	360.0	255.9

Note: some columns may not add to 100% due to rounding; on-road mobile sources for 1990 were developed with EPA's MOBILE5a, whereas 1999 on-road mobile sources were developed using EPA's MOBILE5b.

Sources: 1990 data: 1993 MAG Ozone Plan; 1999 data: MAG 1-Hour Ozone Redesignation Request and Maintenance Plan.

It can be seen that overall, both VOC emissions and NO_X emissions decreased in the Phoenix metropolitan nonattainment area between 1990 and 1999. Increases in emissions of VOC in the nonroad mobile source category and biogenics were offset by larger decreases in emissions from other source categories. Increases in emissions of NO_X from area sources were offset by larger decreases in other source categories. We propose to find that the improvement in ozone air quality in the Phoenix metropolitan area is due to emissions reductions from implementation of permanent and enforceable measures and that the area thereby meets the redesignation criterion under section 107(d)(3)(E)(iii).

D. The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

1. Section 110 Requirements

Although section 110 was amended in 1990, the Maricopa County portion of the Arizona 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 EPA-approved 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). The SIP contains enforceable emission limitations, requires monitoring, compiling and analyzing of ambient air quality data, requires preconstruction review of new major stationary sources and major modifications to existing ones, provides for adequate funding, staff, and associated resources necessary to implement its requirements, and requires stationary source emission monitoring and reporting.

Specifically, sections 110(a)(2)(A), (C), and (E) concerning plan enforcement and implementation requirements are addressed in Chapter Eight, page 8–146 and Chapter 11, page 11–1 of the *Revised Serious Area Carbon Monoxide Plan* (''Revised 1999 CO Plan''). EPA approved this plan in a final rule on March 9, 2005 (*see* 70 FR 11553). In order to comply with these CAA sections, a State law was passed in 1992 which provides an approach for assurances that State and local committed measures will be adequately implemented (*see* Arizona Revised Statutes (A.R.S.) Sections 49–406 I. and J.) A.R.S. Section 49–406 G. (passed by the Arizona Legislature in 1992) requires that each agency which commits to implement any control measure contained in the SIP must describe the commitment in a resolution. The resolution must be adopted by the appropriate governing body of the agency. State law also requires the entity to specify the following information in the resolutions: (1) Its authority for implementing the limitation or measure as provided in statute, ordinance, or rule; (2) a program for the enforcement of the limitation or measure; and (3) the level of personnel and funding allocated to the implementation of the measure.

Chapter 11 of the Revised 1999 CO Plan includes resolutions from the MAG member agencies and other implementing entities. These resolutions indicate specific commitments to implement various control strategies which reduce CO as well as ozone precursor emissions. Generally, the authorities of the cities and towns to implement the types of measures that they have committed to in their respective resolutions are provided under A.R.S. section 9–240 Powers of Common Council. The general authorities of the County to implement the measures in the commitments are provided under A.R.S. section 11–251 and A.R.S. section 49–478. Copies of these local and county government authorities were included in Chapter 11 of the Revised 1999 CO Plan.

If any State, County, local government, regional agency, or other entity failed to implement a committed measure, the County would file an action in Superior Court to have the Court order that the measure be implemented. Likewise, the Director of ADEQ will backstop the County if it fails to implement a committed measure or if the County fails to backstop the local governments and regional agencies (*see* Appendix C, Exhibit 2, Revised 1999 CO Plan).

2. Part D: Provisions for Nonattainment Areas

Before an area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D. Under part D of title I of the CAA, an area's ozone classification determines the requirements to which it is subject. Subpart 1 of part D specifies the basic requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a) of the CAA.

As described in the General Preamble for Implementation of Title I of the CAA, specific requirements of subpart 2 may override or modify general provisions in subpart 1 (57 FR 13501, April 16, 1992). Therefore, in order to be redesignated, the States must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D.

EPA believes that Arizona has met the requirements of subpart 1 of part D—specifically sections 172(c) and 176, insofar as applicable, as well as the applicable requirements of subpart 2 of part D of the CAA for the Phoenix metropolitan 1-hour ozone nonattainment area, as described below.

a. *Section 172 Requirements.* This section contains general requirements for nonattainment area SIPs. A thorough discussion of the requirements contained in section 172(c) may be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992).

EPA has interpreted the requirements of sections 172(c)(1) (non-RACT reasonably available control measures-RACM), 172(c)(2) (reasonable further progress-RFP), 172(c)(6) (other measures), and 172(c)(9) (contingency measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See the General Preamble of April 16, 1992, and the Calcagni Memorandum. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request. The other plan provisions under section 172(c) are discussed below.

Reasonably Available Control Technology (RACT). Nonattainment plans must, at a minimum, require the implementation of RACT for stationary sources. These requirements are discussed below under Section 182 Requirements.

Emissions Inventories. The plan needs to include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant as determined necessary by the Administrator to assure that the requirements of part D of the CAA are met. These requirements are discussed below under Section 182 Requirements.

Permits for New and Modified Major Stationary Sources. For the section 172(c)(5) New Source Review (NSR) requirements, the CAA requires all nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions will not result from any new or modified major stationary sources and a general offset rule.

We have determined that areas being redesignated from nonattainment to attainment do not need to comply with the requirement that an NSR program be approved prior to redesignation provided that the area demonstrates maintenance of the standard without part D nonattainment NSR in effect. The rationale for this decision is described in the Nichols memo.[1]

The Redesignation Request and Maintenance Plan for the Phoenix ozone nonattainment area indicates expected additional VOC and NO_X emissions due to major source growth. Thus, we find that the maintenance demonstration for the Phoenix metropolitan area does not rely on nonattainment NSR, and the State need not have a fully-approved nonattainment NSR program prior to approval of the redesignation request.

Prevention of Significant Deterioration (PSD) is the replacement program for NSR, and part of the obligation under PSD is for a new source to review increment consumption and maintenance of the air quality standards. The PSD program requires stationary sources to undergo preconstruction review before facilities are constructed or modified, and to apply Best Available Control Technology (BACT). This program will apply to any major source wishing to locate in the Phoenix metropolitan area once the area is redesignated to attainment. Effective November 22, 1993, we delegated PSD authority to Maricopa County via a PSD Delegation Agreement (59 FR 1730, January 12, 1994).

Compliance With Section 110(a)(2). The plan must contain provisions to meet the requirements of section 110(a)(2) of the CAA (see the discussion of section 110 requirements above).

b. *Section 176 Requirements.* Section 176(c) of the CAA requires States to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable 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 Federally supported or funded projects (''general conformity'').

Section 176 further provides that State conformity revisions must be consistent with Federal conformity regulations that the CAA required the EPA to promulgate. EPA believes it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Second, the EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally approved State rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. See *Wall* v. *EPA,* 265 F. 3d 426, 439 (6th Cir. 2001) upholding this interpretation.

The State of Arizona has fully adopted general conformity procedures, approved by EPA on April 23, 1999 (64 FR 19916). The State-adopted transportation conformity procedures are found in A.R.S. Title 18, Chapter 2, Article 14. We have not yet approved transportation conformity procedures in

[1] ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment'', Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

the SIP. For the reasons stated above, EPA believes the approval of conformity rules into the State's SIP is not a prerequisite for redesignation. Federal transportation conformity rules continue to apply.

c. *Section 182 Requirements.* For purposes of this redesignation, the part D, subpart 2, section 182(a), (b) and (c) requirements for a nonattainment area apply to the Phoenix metropolitan nonattainment area.

EPA has interpreted the requirements of sections 182(c)(2) (attainment and RFP demonstrations), 182(c)(5) (transportation control), and 182(c)(9) (contingency measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See the General Preamble of April 16, 1992, and the Calcagni Memorandum. The other plan provisions under section 182 are discussed below.

1990 Base Year Inventory and Periodic Emissions Inventory Updates. Sections 182(a)(1) and 182(a)(3)(A) of the Act, as amended in 1990, require States to submit a comprehensive, accurate, current inventory of actual emissions from all sources in the ozone nonattainment area and to submit updates of those inventories every three years until redesignation.

Arizona submitted a complete and accurate 1990 emissions inventory for VOC and NO_X for the Phoenix metropolitan nonattainment area as noted in EPA's final approval of the emissions inventory on May 27, 1998 (63 FR 28898). Arizona submitted updated periodic emissions inventories for 1993, 1996, and 1999. The final 1993 ozone SIP inventory was submitted to us on November 25, 1996. The 1996 base year (July–September 1996) ozone inventory was submitted as part of the Serious Area Ozone Plan, Appendix E.[2] We are proposing to approve the 1996 ozone inventory submitted as part of the Serious Area Ozone Plan. The 1999 periodic ozone emissions inventory for the Phoenix metropolitan nonattainment area was originally submitted to EPA in August 2002 and then re-submitted to EPA as part of the Redesignation Request and Maintenance Plan, in Appendix A, Exhibit 1. The Appendix contains a complete description of the sources and methodologies used to calculate ozone emissions.

The 1-Hour Ozone Redesignation Request and Maintenance Plan also contains a description of the 1998 and 1999 base year inventories, the interim year 2006, and the maintenance year 2015 ozone precursor emissions inventories for use in Urban Airshed Model (UAM) simulations.

In MAG's emissions inventories, emissions sources are grouped into five major categories: Point sources, area sources, nonroad mobile sources, on-road mobile sources, and biogenic emissions. Point sources include such categories as industrial, manufacturing, and electric power generation facilities. Area sources include residential woodburning, industrial fuel combustion, on-site incineration, and open burning. Biogenic emissions come from natural vegetation. Nonroad mobile sources include utility, lawn and garden, construction, farm and recreational equipment, and aircraft and locomotives. On-road mobile sources include cars, motorcycles, various sizes of trucks, and buses. Collectively, these sources contributed a total of 256 metric tons per day of NO_X and 360 metric tons per day of VOC in 1999.

We propose to approve the 1996 and 1999 periodic emissions inventories and find that the State has complied with the inventory requirements of section 182(a)(1) and 182(a)(3)(A). We also propose to approve the 1998 and 1999 base year inventories, the interim year 2006 inventory, and maintenance year 2015 inventory in connection with the maintenance demonstration discussed elsewhere in this notice.

Emissions Statement Requirements. Section 182(a)(3)(B) of the Act requires States to submit a SIP revision requiring owners or operators of stationary sources of VOC or NO_X to provide the State with estimates of actual emissions from such sources. Arizona's SIP includes regulations requiring annual emissions statements from major sources. Specifically, to comply with this requirement, the State submitted Maricopa County (MC) Rule 100.503 to EPA on February 4, 1993. We approved this rule by direct final action published on February 10, 2005. See 70 FR 7038 (February 10, 2005). Assuming no adverse comments are submitted in connection with this direct final rule, our final rule published on February 10, 2005 will be effective on April 11, 2005. If adverse comments are timely submitted, then we will withdraw the direct final rule and consider those comments prior to taking a final action. See our proposed rule (70 FR 7069) also published on February 10, 2005. We will finalize our action on MC Rule 100.503 prior to taking final action on this proposal.

15 Percent ROP Plan Requirements. Section 182(b)(1) of the CAA requires the submission of a 15 percent ROP plan. This plan is to provide for VOC emission reductions in the nonattainment area of at least 15 percent, from the 1990 baseline emissions levels, by no later than November 15, 1996. Arizona submitted its initial 15 percent ROP plan for the Phoenix metropolitan nonattainment area on November 15, 1993 and supplemented it on April 8, 1994. On April 13, 1994, we found the initial plan incomplete because it failed to include, in fully adopted and enforceable form, all of the measures relied upon in the 15 percent demonstration. This incompleteness finding started the 18-month sanctions clock in CAA section 179 and the two-year clock under section 110(c) for EPA to promulgate a FIP covering the 15 percent ROP requirements. In November 1994 and April 1995, Arizona submitted an attainment plan for the Phoenix metropolitan nonattainment area which updated the 15 percent ROP demonstrations.

On May 12, 1995, we found the revised 15 percent plan and the attainment plan complete, turning off the sanctions clock; however, under section 110(c), the FIP clock continued until EPA approved the 15 percent plan. In August 1996, we were sued by the American Lung Association of Arizona and others, *American Lung Association of Arizona, Inc. et al.* v. *Browner*, No. CIV 96 1856, PHX ROS (D. Arizona) to enforce EPA's obligation under CAA section 110(c) to promulgate a FIP for the 15 percent ROP requirement. On July 8, 1997, a consent decree was filed in the case establishing a schedule of January 20, 1998 for proposing and May 18, 1998 for promulgating a 15 percent ROP plan. Under the consent decree, EPA's obligation to promulgate a 15 percent ROP plan was relieved to the extent that we had approved State measures. EPA determined in its final rule that the Phoenix metropolitan nonattainment area had in place or would have in place sufficient control measures to meet the 15 percent ROP requirement for volatile organic compounds (VOCs), a precursor emission to ozone, under CAA section 182(b)(1)(A) as soon as practicable. See 63 FR 28898 (May 27, 1998), as amended at 64 FR 36243 (July 6, 1999).

VOC RACT Requirements. Section 172(c)(1) of the CAA specifies that SIPs must provide for the implementation of all RACM including all RACT as

[2] ADEQ held a public hearing for the Serious Area Ozone Plan on April 26, 2000. ADEQ adopted the Serious Area Ozone Plan on December 14, 2000 and submitted it to us on the same date. We find that ADEQ thereby satisfied the requirements for notice and public hearing on all SIP revisions under section 110(1) of the Act.

expeditiously as practicable to attain the NAAQS. Sections 182(a)(2)(A) and 182(b)(2) further provide that, at a minimum, the SIPs must require the implementation of RACT for two classes of VOC sources. The VOC source classes are: (a) All sources covered by a Control Techniques Guideline (CTG) document issued by the Administrator by the date of attainment of the ozone standard; and (b) all other major non-CTG stationary sources.

Arizona's redesignation request, submitted on April 21, 2004, describes how the State of Arizona has met the VOC RACT requirements under sections 172(c)(1) and 182(b)(2) of the Act for nearly all of the CTG source categories and VOC major sources either through adoption of Maricopa County air pollution control regulations or negative declarations and how the State intends to fulfill the RACT requirement for the few remaining CTG source categories and VOC major sources. EPA, through a number of rulemakings, has approved these RACT rules and negative declarations as revisions to the Arizona SIP as documented in Table 3.

TABLE 3.—MARICOPA COUNTY VOC RACT RULES AND SIP STATUS

VOC RACT requirement	MC Rule(s), SIP Status, and, if approved, **Federal Register** Citation
Control Techniques Guidelines	
Gasoline Loading Terminals	MC Rules 350 and 351: MC Rule 350 adopted July 13, 1988, revised April 6, 1992; revision approved September 5, 1995 (60 FR 46024). MC Rule 351 adopted February 15, 1995, approved February 9, 1998 (63 FR 6489).
Gasoline Bulk Plants	MC Rule 350: adopted July 13, 1988, revised April 6, 1992; revision approved September 5, 1995 (60 FR 46024).
Service Stations—Stage I	MC Rule 353: adopted July 13, 1988, revised April 6, 1992; approved February 1, 1996 (61 FR 3578).
Fixed Roof Petroleum Tanks	MC Rule 350: adopted July 13, 1988, revised April 6, 1992; revision approved September 5, 1995 (60 FR 46024).
Miscellaneous Refinery Sources	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Cutback Asphalt	MC Rule 340: adopted July 13, 1988, revised June 22, 1992, revised September 21, 1992; approved February 1, 1996 (61 FR 3578).
Solvent Metal Cleaning	MC Rule 331: adopted July 13, 1988, revised June 22, 1992, revised June 19, 1996, revised April 21, 2004; approved February 1, 1996 (61 FR 3578), approved February 9, 1998 (63 FR 6489), approved December 21, 2004 (69 FR 76417).
Surface Coating of:	
Cans	MC Rule 336: adopted July 13, 1988, revised September 21, 1992, June 19, 1996, April 7, 1999; approved September 20, 1999 (64 FR 50759).
Metal Coils	MC Rule 336: adopted July 13, 1988, revised September 21, 1992, June 19, 1996, April 7, 1999; approved September 20, 1999 (64 FR 50759).
Fabrics	MC Rule 336: adopted July 13, 1988, revised September 21, 1992, June 19, 1996, April 7, 1999; approved September 20, 1999 (64 FR 50759).
Paper Products	MC Rule 336: adopted July 13, 1988, revised September 21, 1992, June 19, 1996, April 7, 1999; approved September 20, 1999 (64 FR 50759).
Automobile and Light Duty Trucks	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Metal Furniture	MC Rule 336: adopted July 13, 1988, revised September 21, 1992, June 19, 1996, April 7, 1999; approved September 20, 1999 (64 FR 50759).
Magnetic Wire	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Large Appliances	MC Rule 336: revised September 21, 1992, June 19, 1996, April 7, 1999; approved September 20, 1999 (64 FR 50759).
Leaks from Petroleum Refineries	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Miscellaneous Metal Parts Surface Coating	MC Rule 336: revised September 21, 1992, June 19, 1996, April 7, 1999; approved September 20, 1999 (64 FR 50759).
Surface Coating of Flat Wood Paneling	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Synthetic Pharmaceutical Manufacture	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Rubber Tire Manufacture	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
External Floating Roof Petroleum Tanks	MC Rule 350: adopted July 13, 1988, revised April 6, 1992; revision approved September 5, 1995 (60 FR 46024).
Graphic Arts	MC Rule 337: adopted November 20, 1996, submitted February 26, 1997, approved February 8, 1998 (63 FR 6489).
Perchloroethylene Drycleaning [(a)]	Perchloroethylene was delisted as a VOC by EPA (see Footnote (a)).
Gasoline Truck Leaks and Vapor Collection	MC Rule 352: adopted November 16, 1992, submitted February 4, 1993, approved September 5, 1995 (60 FR 46024).

TABLE 3.—MARICOPA COUNTY VOC RACT RULES AND SIP STATUS—Continued

VOC RACT requirement	MC Rule(s), SIP Status, and, if approved, **Federal Register** Citation
Manufacture of High-Density Polyethylene Polypropylene, and Polystyrene Resins.	MC Rule 358: Polystyrene Foam Manufacturing, proposed approval was signed by Regional Administrator for EPA Region 9 on March 8, 2005. This proposal is expected to be published in the Federal Register by mid-March 2005.
Fugitive Emissions from Synthetic Organic Chemical, Polymer, and Resin Manufacturing Equipment.	Negative declaration, submitted December 14, 2000, Aapproved August 26, 2002 (67 FR 54741).
Large Petroleum Dry Cleaners	MC Rule 333: adopted June 19, 1996, submitted February 26, 1997, approved February 9, 1998 (63 FR 6489).
Air Oxidation Processes—Synthetic Organic Chemical Manufacturing Industries.	Negative declaration, submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Equipment Leaks from Natural Gas/Gasoline Processing Plants	Negative declaration: submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Synthetic Organic Chemical Manufacturing Industries (SOCMI)—Distillation and Reactor Processes.	Negative declaration: submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Volatile organic liquid storage	MC Rule 350: adopted July 13, 1988, revised April 6, 1992; revision approved September 5, 1995 (60 FR 46024).
SOCMI batch processes	Negative declaration: submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Industrial Wastewater	Negative declaration: submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Plastic Parts Coating (for business machines and automobiles)	MC Rule 336: adopted July 13, 1988, revised September 21, 1992, June 19, 1996, April 7, 1999, approved September 20, 1999 (64 FR 50759).
Cleaning solvents	MC Rule 331: adopted July 13, 1988, revised June 22, 1992, revised June 19, 1996, revised April 21, 2004, submitted July 28, 2004; approved February 1, 1996 (61 FR 3578), approved February 9, 1998 (63 FR 6489), approved December 21, 2004 (69 FR 76417).
Offset lithography	MC Rule 337: adopted November 20, 1996, submitted February 26, 1997, approved February 9, 1998 (63 FR 6489).
Shipbuilding and ship repair coatings	Negative declaration: submitted December 14, 2000, approved August 26, 2002 (67 FR 54741).
Wood Furniture	MC Rule 342: adopted November 20, 1996, submitted February 26, 1997, approved February 9, 1998 (63 FR 6489).
Aerospace	MC Rule 348: adopted April 7, 1999, submitted August 4, 1999, approved September 20, 1999 (64 FR 50759).
Architectural and industrial maintenance (AIM) coatings	MC Rule 335 adopted July 13, 1988, submitted January 4, 1990, approved January 06, 1992 (57 FR 354)
Major Sources Subject to RACT	
Fiberglass Boat Manufacturing	Negative declaration: submitted April 21, 2004, approved by direct final rule on February 10, 2005 (70 FR 7038) if no adverse comments are received by March 14, 2005.
Rubber Sports Ball Manufacturing	MC Rule 334: adopted June 19, 1996, submitted February 26, 1997, approved February 2, 1998 (63 FR 6489).
Metal Casting	MC Rule 341: adopted August 5, 1994, submitted August 16, 1994, approved February 12, 1996 (61 FR 5287).
Commercial Bread Bakeries	MC Rule 343: adopted February 15, 1995, submitted August 31, 1995, approved March 17, 1997 (62 FR 12544).
Semiconductor Manufacturing	MC Rule 338: adopted June 19, 1996, submitted February 26, 1997, approved February 9, 1998 (63 FR 6489).
Vegetable Oil Extraction Processes	MC Rule 339: adopted November 16, 1992, submitted February 04, 1993, approved February 9, 1998 (63 FR 6489).
Coating Wood Millwork	MC Rule 346: adopted November 20, 1996, submitted February 26, 1997, approved February 9, 1998 (63 FR 6489).
Ferrous Sand Casting	MC Rule 347: adopted March 4, 1998, submitted August 4, 1999, approved June 12, 2000 (65 FR 36788).
Vitamin Manufacturing	MC Rule 349: adopted April 7, 1999, submitted August 4, 1999, approved June 8, 2001 (66 FR 30815).
Automotive Windshield Wiper Fluid	MC Rule 344: adopted April 7, 1999, submitted August 4, 1999, approved November 30, 2001 (66 FR 59699).
Fiberboard for Expansion Joints	VOC RACT by permit (W.R. Meadows): proposed approval was signed by Regional Administrator for EPA Region 9 on March 3, 2005. This proposal is expected to be published in the **Federal Register** by mid-March 2005.

NA = not applicable.
[(a)] Perchloroethylene was delisted as a VOC effective March 8, 1996 (see 61 FR 4588, February 7, 1996).

As shown in Table 3, the VOC RACT requirements under sections 172(c)(1), 182(a)(2)(A) and 182(b)(2) have been met for the vast majority of CTG source categories and major sources either through establishment of Maricopa County (MC) regulations or by submittal of negative declarations. At this time, we propose to find that Arizona has met the RACT requirement for the MAG 1-hour ozone nonattainment area contingent upon our full final approval of (1) MC Rule 358 (establishes RACT requirements for major VOC sources in the emissions source category of Polystyrene Foam Manufacturing), (2) W.R. Meadows' permit conditions (establishes RACT requirements for a specific major VOC source), and (3) the negative declaration for the one major VOC source in the emissions source category of Fiberglass Boat Manufacturing. The Regional Administrator for EPA Region 9 signed rules in early March 2005 proposing approval of MC Rule 358 and W.R. Meadows' permit conditions as meeting the RACT requirement for the affected sources, and these proposals are expected to be published in the **Federal Register** in mid-March. EPA approved the negative declaration for the one major VOC source in the emissions source category of Fiberglass Boat Manufacturing on February 10, 2005 (70 FR 7038) by direct final action. If no adverse comments are received on that direct final action by March 14, 2005, then the approval of the negative declaration will become effective April 11, 2005, but if such comments are received then the direct final rule will be withdrawn and EPA will taken final action after consideration of the comments.

Stage II Vapor Recovery Requirements. Section 182(b)(3) of the CAA requires States to submit Stage II vapor recovery rules. The Stage II vapor recovery regulations for the Phoenix metropolitan nonattainment area were submitted to us on May 27, 1994 by the State. These rules had been adopted by the Arizona Department of Weights and Measures (ADWM) on August 27, 1993. We approved the program on November 1, 1994, effective January 3, 1995 (*see* 59 FR 54521). Subsequent State legislation (House Bill (HB) 2001, in 1997) required the ADWM to adopt rules to enhance enforcement of the program. These rules can be found at A.R.S. 41–2134. The regulations in the Arizona SIP fully adopt and implement the Stage II vapor recovery requirements in Arizona.

Vehicle I/M Requirements. Section 182(c)(3) and EPA's final I/M regulations in 40 CFR part 51, subpart S require States with ''serious'' ozone nonattainment areas to submit a fully adopted ''enhanced'' I/M program. EPA approved revisions to Arizona's enhanced vehicle I/M program for the Phoenix metropolitan nonattainment area as part of the Arizona SIP on January 22, 2003 (see 69 FR 2912). ADEQ implements an enhanced I/M program in Area A, which includes and goes beyond the Phoenix metropolitan 1-hour ozone nonattainment area. EPA believes that the Arizona SIP for the Phoenix 1-hour ozone nonattainment area satisfies all of the Section 182(c)(3) requirements of the CAA.

Clean Fuel Vehicle Programs. Sections 182(c)(4)(A) of the CAA requires States to submit a SIP revision for each serious 1-hour nonattainment area that includes such measures necessary to ensure the effectiveness of clean-fuel vehicle program prescribed under part C of title II of the Act. In particular, SIPs for serious ozone nonattainment areas with 1980 populations of 250,000 or more must establish a clean-fuel vehicle program for centrally fueled fleets (referred to herein as the ''clean fuel fleet'' (CFF) program). CAA section 246. Under the CFF program, a specified percentage of vehicles purchased by fleet operators for covered fleets shall be clean-fuel vehicles and shall use clean alternative fuels when operating in the covered area. Section 182(c)(4)(B) of the Act allows States such as Arizona to ''opt-out'' of all or a portion of the clean-fuel vehicle program including the CFF program by submitting for EPA approval a SIP revision consisting of a program or programs not otherwise required by the Act that will result in at least equivalent long term reductions in ozone-producing and toxic air emissions.

On December 7, 1998, Arizona submitted to EPA a SIP revision opting out of the CFF program. The opt-out SIP requested EPA approval of its interim Cleaner Burning Gasoline (CBG) program, which EPA had already approved into the SIP (*see* 63 FR 6653, February 10, 1998), as a substitute program.[3] On June 7, 1999, the revision was found to be complete by operation of law pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V. In the 1998 opt-out SIP submittal, ADEQ had estimated that the CBG program would provide 9 metric tons per day (mtpd) of VOC reductions in 2010 compared to 0.5 to 1.8 mtpd in that same year that would have been achieved by a CFF program.[4] ADEQ also estimated that the CBG program would provide 5.0 mtpd of NO_X reductions in 2010 compared to 0.6 to 2.5 mtpd in that same year that would have been achieved by a CFF program. See also, Arizona's modeled emission reductions from the four control programs, the National Low Emission Vehicle (NLEV) program, CBG, Tier 2 and the CFF Program, in 2015 in Metropolitan Phoenix.[5]

TABLE 4.—EMISSIONS REDUCTIONS FROM FOUR CONTROL PROGRAMS IN 2015 IN METROPOLITAN PHOENIX

Program	Emissions reductions (tons per day)	
	HC	NO_X
Tier 2	18.3	86.4
CBG	8.0	5.0
NLEV	2.2	3.9
Federal Clean Fuel Fleet	0.5–1.8	0.7–2.5

The CBG program is not explicitly required by the CAA in the Phoenix metropolitan ozone nonattainment area. Additionally, the resulting reductions of ozone-producing emissions from this program (VOCs and NO_X) meet or exceed the emissions reductions that would have occurred if the CFF program were implemented. EPA will be approving only those emissions reductions needed to meet the CFF program. Finally, because reductions in toxic air emissions are proportional to the reduction in VOC emissions, any substitute plan which reduces VOCs will also reduce toxic air emissions in the same proportion. Therefore, Arizona's substitute plan will meet the CFF program requirement for air toxics emissions.

Based on the above evaluation, we propose to approve, under section 182(c)(4)(B) of the Act, ADEQ's submittal of the CBG program as a substitute measure achieving equivalent long-term emissions reductions of ozone-producing and toxic air pollutants as would have been achieved by implementation of a CFF program. In

[3] EPA has since approved additional revisions to the Arizona CBG program.

[4] ADEQ noted that its estimates of the emissions reductions benefit from a CFF program were likely overstated because the estimates did not account for the National Low Emission Vehicle (NLEV) program, which was expected to be implemented in Arizona and to lead to the availability of lower-emitting (conventional) light duty vehicles beginning with the 2001 model year.

[5] EPA promulgated the NLEV program on June 6, 1997 under which vehicle manufacturers voluntarily agreed to market light duty gasoline vehicles with emissions substantially lower than Tier 1 vehicles. (62 FR 31193, (June 6, 1997)). On February 10, 2000, EPA promulgated the Tier 2/gasoline sulfur standards that established more stringent exhaust emissions standards for light and medium duty gasoline vehicles. (65 FR 6698, (February 10, 2000)).

doing so, we find that the State has provided sufficient documentation of compliance with the notice and hearing requirements for SIP revisions under section 110(l) of the Act (*see* Exhibit 4 of the State's December 7, 1998 SIP revision submittal).

NO_X *Emission Control Requirements.* Section 182(f) establishes NO_X requirements for ozone nonattainment areas which require the same provisions for major stationary sources of NO_X as apply to major stationary sources of VOCs. However, section 182(f) also provides that these requirements do not apply to an area if the Administrator determines that NO_X reductions would not contribute to attainment.

For the Phoenix metropolitan ozone nonattainment area, EPA granted a waiver from the section 182(f) requirements for NO_X. The basis for the waiver was that Arizona demonstrated using UAM that additional NO_X emission controls in the Phoenix metropolitan nonattainment area would not contribute to the attainment of the 1-hour ozone standard in the area. See 60 FR 19510 (April 19, 1995).

Enhanced Monitoring. As a result of the reclassification of the Phoenix metropolitan 1-hour ozone nonattainment area to ''serious,'' the area became subject to the CAA section 182(c)(1) requirement that the area establish and implement a Photochemical Assessment Monitoring Station (PAMS) network. The Serious Area Ozone Plan describes the steps that the State has taken to comply with section 182(c)(1) (see page 2–8 of the Serious Area Ozone Plan). In the Serious Area Ozone Plan, ADEQ indicated that, in 1999, the PAMS network was not yet fully implemented but that it was being phased-in over a five year period in accordance with 40 CFR part 58.44 and 40 CFR part 58. We propose to find that the State has met the requirements for enhanced monitoring under section 182(c)(1).

When EPA finalizes today's proposal for the serious area plan revision to the Arizona SIP as well as the three separate rulemakings previously discussed, the Arizona ozone SIP will meet the applicable requirements of section 110 and part D.

E. The Area Must Have a Fully-Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 107(d)(3)(E)(iv) of the CAA requires, as a pre-condition to being redesignated from nonattainment to attainment, that the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the Act.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision that provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The Calcagni memorandum dated September 4, 1992, provides additional guidance on the required content of a maintenance plan.

A 1-hour ozone maintenance plan should address the following five areas: The attainment emissions inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The attainment emissions inventory identifies the emissions level in the area that is sufficient to attain the 1-hour ozone NAAQS, based on emissions during a three-year period which had no monitored violations. To demonstrate maintenance of the 1-hour ozone NAAQS, the results from UAM modeling analyses should not show predicted 1-hour maximum ozone concentrations equivalent to or greater than 0.125 ppm anywhere in the modeling domain for the episode modeled. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The State must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include a list of potential contingency measures which ensure prompt correction of any violation of the 1-hour ozone NAAQS.

1. Emissions Inventory

MAG selected 1999 as the attainment year for purposes of demonstrating attainment of the 1-hour ozone NAAQS. Modeling episodes in both 1998 and 1999 were used; therefore, MAG developed modeling inventories for both of the base years (*i.e.*, 1998 and 1999), as well as an interim year 2006 and the maintenance year of 2015. These emissions inventories all include on-road mobile, nonroad mobile, point, area, and biogenic sources. The 1998 inventory was developed for a July 16–17 modeling episode, and the 1999 inventory was developed for an August 23–24 modeling episode. Both base year inventories reflect control strategies in place at that time. The future year emission inventories include projected emissions reductions from control measures that were implemented and enforceable after 1998 and 1999. Sections III and VI of MAG's *Technical Support Document for Ozone Modeling in Support of the One-Hour Ozone Redesignation Request and Maintenance Plan for the Phoenix metropolitan Nonattainment Area, November 2003* (included as Exhibit 2 of Appendix A of the Redesignation Request and Maintenance Plan) describe the inventories in more technical detail.

Emissions for point, area, and nonroad mobile sources were developed for a base year and then projected to 2006 and 2015 using appropriate growth factors. The growth factors were based on the 2015 population projections approved by the MAG Regional Council in June 1997 and developed from the 1995 Special Census. The 2015 employment factors by Standard Industrial Classification SIC) code were extrapolated from projections prepared by the Arizona Department of Economic Security (DES) in August 1997. Growth factors based on 2000 Census Data were not available at the time the modeling demonstration was begun. On-road vehicle activity was increased by eight and twelve percent for 2006 and 2015, respectively, because of expected increases in population and employment projections for Phoenix metropolitan.

In the 1998 and 1999 base cases, on-road mobile sources contribute 28 to 30 percent of VOC emissions and 51 to 52 percent of NO_X emissions and represent the largest emissions source category for both NO_X and VOC. With the implementation of the measures in the maintenance plan and stricter federal controls on vehicles and fuels, on-road mobile source NO_X emissions decrease by about 19 percent between 1999 and 2006, and 58 percent between 1999 and 2015. On-road mobile source VOC emissions decrease by 32 percent between 1999 and 2006, and 54 percent between 1999 and 2015.

Due to anticipated regional population growth, area sources become the largest source category for NO_X and VOC emissions in 2015. Area source NO_X emissions increase by 25 percent between 1999 and 2006, and 56 percent between 1999 and 2015. Area source VOC emissions increase by 22 percent between 1999 and 2006, and 49 percent between 1999 and 2015.

As a result of expected increases in power plant emissions, point source NO_X emissions increase from 1999 to 2015. Point source NO_X emissions increase 48 percent between 1999 and 2006, and 59 percent between 1999 and 2015. Point source VOC emissions increase by 13 percent between 1999 and 2006, and 32 percent between 1999 and 2015. With the implementation of the federal nonroad vehicle and engine standards, nonroad mobile NO_X emissions decrease by about 14 percent between 1999 and 2006. Nonroad

mobile VOC emissions decrease by about 23 percent between 1999 and 2006, and about 63 percent between 1999 and 2015.

Biogenic emissions are determined by land use type. Residential land use has a higher emission factor for biogenic VOC than agricultural land, while the opposite is true for biogenic NO_X emissions. Since it is anticipated that the residential land area will continue to increase as the Phoenix metropolitan area grows, and agricultural land uses will decline, biogenic VOC emissions are forecast to increase less than 1 percent between 1999 and 2006, and about 12 percent between 1999 and 2015, while biogenic NO_X emissions decrease by about 3 percent between 1999 and 2006, and about 15 percent between 1999 and 2015.

By implementing the emissions control measures in the maintenance plan, total NO_X emissions will decrease by about 5 percent between 1999 and 2006, and by about 17 percent between 1999 and 2015. Total VOC emissions will decrease by about 8 percent between 1999 and 2006, and about 14 percent between 1999 and 2015.

2. Maintenance Demonstration

a. *Introduction.* To demonstrate maintenance of the ozone standard through a ten-year maintenance period, MAG projected VOC and NO_X emissions for the Phoenix metropolitan nonattainment area to 2006 and 2015 and used these emissions estimates in UAM. The 2006 emission estimates were generated to test a midpoint in the ten-year maintenance period. This interim year 2006 was developed for the purposes of transportation conformity.

Table 5 summarizes the VOC and NO_X emissions estimates for the Phoenix metropolitan nonattainment area for 1999, 2006, and 2015.

Comparison of base and future year inventories, as shown in Table 5, indicates an 18–21 percent decrease in NO_X emissions between the 1998/1999 base case inventories and 2015. VOC emissions decrease between 9 and 15 percent during this same time period.

TABLE 5.—PHOENIX METROPOLITAN NONATTAINMENT AREA 1999, 2006, AND 2015 VOC AND NO_X EMISSIONS

[Emissions in metric tons per ozone season weekday]

Source category	1999*		2006		2015	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point Sources	15.3	16.5	17.4	24.5	20.2	26.3
Area Sources	82.6	43.0	101.4	54.1	123.5	67.4
On-Road Mobile Sources	106.9	129.8	71.9	104.8	48.7	53.6
Nonroad Mobile Sources	78.5	59.3	61.0	50.9	28.7	57.2
Biogenics	76.7	7.3	77.2	7.1	85.8	6.2
Total	360.0	255.9	328.9	241.4	306.9	210.7

Notes: * Emissions from 1999 are for the Tuesday in August base case modeling day. Data are from pages ES–5, ES–6, 3–11 and 3–12 of the maintenance plan.

b. *Modeling Procedure.* In developing the maintenance demonstration, MAG followed EPA's *Guideline for Regulatory Application of the Urban Airshed Model* (EPA–450/4–91–013, July 1991; available at *http://www.epa.gov/scram001/tt25.htm*; hereafter ''GRAUAM''). This involves using UAM, a photochemical grid model, to simulate ozone production during selected recent ozone episodes. These ''base case'' simulations incorporate meteorological and emissions data corresponding to the episode days. Future case ozone simulations are then created using future emissions, which are estimated using information about control measures, as well as socioeconomic projections. The goal is to show that ozone concentrations continue to be below the standard in the future, so that NAAQS maintenance is demonstrated.

Documentation about the redesignation request's application of UAM is contained principally in the MAG SIP submittal's Appendix A, Exhibit 2, ''Technical Support Document for Ozone Modeling in Support of the One-Hour Ozone Redesignation Request and Maintenance Plan for the Phoenix metropolitan Nonattainment Area'' (hereafter ''MAG TSD''). Development of the application of UAM followed a protocol, per GRAUAM (the EPA guideline), which is included in the Appendix I of the MAG TSD. This protocol describes procedures to be followed in developing model inputs and in judging model performance, as well as the size of the modeling domain and the particular ozone episodes to be modeled. The protocol was reviewed and agreed to by both EPA and ADEQ prior to submission of the maintenance plan.

c. *Model Inputs.* The modeling domain used by MAG for the maintenance modeling demonstration was larger than in earlier UAM applications for the Phoenix metropolitan area. It was extended to include some large point sources to the west (and generally upwind) of the main metropolitan area, and also to the east to include more of the ozone plume that had been seen in previous simulations as well as urban areas which are growing rapidly. This expanded domain ensured that all the relevant source and receptor areas were included in the simulation, even beyond the nonattainment area itself.

After analysis of 32 high ozone days spread among 21 episodes, two ozone episodes were chosen for modeling: July 16–17, 1998 and August 23–24, 1999. While there have been no recent NAAQS exceedances, these episodes have among the highest ozone concentrations observed; their peak concentrations are 118 ppb and 124 ppb, respectively (the NAAQS is 0.12 ppm, or 120 ppb, but values below 125 ppb are rounded down and not considered exceedances). These episodes are representative of the two meteorological ''regimes'' observed for the Phoenix metropolitan nonattainment area; simulating both ensures that the NAAQS will be maintained under the various meteorological conditions that can occur in the Phoenix metropolitan area. Both regimes involve a low pressure center over southwestern Arizona, with relatively high temperatures and low wind speeds. But the regime type of the July 1998 episode tends to have high ozone in the metropolitan center and extending northwest. The regime type of the August 1999 episode is less common, but has a different spatial pattern; high ozone tends to occur more to the east. It also tends to have longer-

lasting southwesterly winds during the day than the other regime.

Standard procedures were followed in developing the meteorological and emissions inputs. The Diagnostic Wind Model (DWM) was used for wind inputs, as it often is with the UAM IV model, and gave reasonable wind fields. Mixing heights were prepared using MIXEMUP, also a fairly standard procedure for use with UAM. MIXEMUP inputs were upper air temperature soundings from Tucson (the only ones available) combined with Sky Harbor (Phoenix) Airport surface temperatures; also, local temperature and wind data from monitoring sites were used to generate a spatially-varying mixing height that better reflected the differing land uses (and hence heating and mixing characteristics) across the domain.

Emissions inputs were developed using EPA's EPS2.0 for spatially and temporally allocating area source emissions; MOBILE6 was used for vehicle emissions, in conjunction with MAG traffic data and the EMME/2 transportation model. Biogenic emissions, which are roughly 20% of total VOC emissions, were estimated using MAGBEIS2, a localized version of EPA's Biogenic Emissions Inventory Software (BEIS2) and incorporating emission factors from EPA's BELD3 database.

d. *Model Testing and Performance.* A number of sensitivity and diagnostic tests were carried out to test the effect of alternative inputs to improve model performance, and to test whether the model responds in a physically reasonable way to various input changes. This process helps avoid spurious good performance due to fortuitously compensating input errors. The test simulations included several alternative boundary concentrations, zeroing of emissions for various broad emissions categories, doubling on-road emissions, and reducing wind speeds by 20 percent. This set of simulations is comparable to the recommendations in EPA guidelines, and helped elucidate the functioning of the model.

Model performance statistics for peak error, overall bias, and overall error were all well within EPA-recommended targets. For example, the July 1998 predicted peak was 119 ppb, while the peak observation was 118 ppb. For August 1999, the predicted peak was 125, while peak observation was 124 ppb. Despite this good agreement, there appears to be a spatial mismatch between some predictions and observations for the August 1999 episode. High ozone appears to persist longer and to be more in the north of the central business district rather than to the east-northeast as indicated by monitored observations. The explanation for this discrepancy appears to be that the wind field used in the model may be shifted slightly relative to the actual winds, so that the ozone plume was shifted relative to the monitors. The model still predicts a comparable ozone peak, both in timing and in concentration, but it just does not happen to be at the monitor locations. This conclusion is supported by the sensitivity simulations with reduced wind speed, since the model responded as expected to this change, and also has a fairly large sensitivity to this as opposed to other variables.

A second anomaly of the August 1999 episode was a persistent moderately high ozone level south of the central business district that was not apparent in the observations and did not seem to match what would be expected from the wind directions and the location of emissions. This did not affect the peak prediction of the model at all, and appeared to be a localized effect that might have been caused by the proximity of South Mountain, which blocks transport toward the south and southeast, and by alternation of morning and afternoon slope flows that cause recirculation of pollutants in the area. Despite these issues, both episodes meet EPA performance criteria and provide an acceptable basis for a maintenance demonstration.

e. *Maintenance Demonstrated.* The maintenance demonstration itself involves projecting emissions to 2015, including the effect of controls, using similar procedures as for the base case episodes. The model is then re-run on the two episodes with the new emissions to test whether the future controlled emissions are still consistent with NAAQS attainment. As shown in Tables 3–3 though and 3–6 of the Redesignation Request and Maintenance Plan (pages 3–9 through 3–12), point and area source emissions increase over the 1998–2015 period, but this is more than made up for by emissions decreases in nonroad mobile and on-road mobile sources. This resulted in predicted ozone peaks decreasing by 2015 from 119 to 116 ppb for the July 1998 episode, and from 125 to 120 for the August 1999 episode. Since these levels are both at or below 124 ppb, maintenance of the 1-hour ozone NAAQS has been demonstrated.

3. Monitoring Network

The Redesignation Request and Maintenance Plan addresses the requirements for continued operation of an ozone monitoring network. ADEQ and MCESD have committed to continue the operation of the monitors in the area in accordance with 40 CFR part 58. See also section IV.A.1 and IV.A.2 of this proposed rule for more detail on Arizona's monitoring network for the Phoenix metropolitan 1-hour ozone nonattainment area.

4. Verification of Continued Attainment

ADEQ, MAG, Maricopa County, and the local jurisdictions have the legal authority to implement and enforce the requirements of the Redesignation Request and Maintenance Plan. This includes the authority to adopt, implement, and enforce any subsequent emission control contingency measures determined to be necessary to correct future ozone attainment problems. To implement the 1-hour ozone maintenance plan, as noted above, ADEQ and MCESD will continue to monitor ozone levels in the Phoenix metropolitan nonattainment area. To track progress on the Maintenance Plan, Maricopa County has also committed to update the emissions inventory for the Phoenix metropolitan nonattainment area every three years for the duration of the maintenance plan with input and assistance from ADEQ and MAG. The ozone monitoring data and the updated emissions inventories will be used through the State's contingency plan to assure maintenance of the 1-hour ozone standard.

5. Contingency Plan

Section 175A(d) of the CAA requires maintenance plans to contain contingency provisions. EPA guidance on the requirements for the contingency plan is provided in the September 4, 1992 Calcagni memo (Calcagni 1992a). As set forth in the Calcagni memo, we interpret section 175A(d) of the CAA not to require fully adopted measures in the contingency plan. However, the plan should contain clearly identified contingency measures to be adopted, a schedule, and a specific time limit for action by the State. In addition, specific triggers should be identified which will be used to determine when the contingency measures need to be implemented. The contingency plan portion of the State's maintenance plans delineate the State's planned actions in the event of increasing ozone levels threatening a subsequent violation of the ozone standard.

MAG followed the August 13, 1993 EPA guidance memorandum entitled ''Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas''. The contingency plan described in MAG's maintenance plan contains

control measures that are expected to be implemented early. MAG's contingency plan contains three measures, Area A Expansion, Gross Polluter Option for I/M Program Waivers, and Increased Waiver Repair Limit Options. Emissions reduction credit for these measures was not taken in the maintenance demonstration.

MAG defines the trigger for the implementation of the contingency plan as when the fourth highest daily maximum hourly measurement over the past three years exceeds 0.120 ppm at any ozone monitor. If this occurs, additional measures will be considered, which may include the strengthening of existing contingency measures. When the trigger is activated, additional control measures will be considered according to the following schedule: (a) Verification of the monitoring data to be completed three months after activation of the trigger; (b) applicable measures to be considered for adoption six months after the date established in (a); and (c) resulting contingency measure to be implemented within six to twelve months, depending on the time needed to implement the measure. The State has also committed to continue to implement all control measures included in the SIP prior to redesignation consistent with section 175A(d) of the CAA.

MAG's Redesignation Request and Maintenance Plan adequately addresses the five basic components which comprise a maintenance plan (attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan) and, therefore, satisfies the maintenance plan requirement.

6. Subsequent Maintenance Plan Revisions

Section 175A(b) of the CAA requires States to submit a subsequent maintenance plan revision eight years after the original redesignation request and maintenance plan have been approved by EPA. The subsequent revision is to provide for maintenance of the air quality standard for an additional 10 years following the first 10-year maintenance period. As the designated regional air quality planning agency for the Phoenix metropolitan area, MAG has committed on page 3–18 of the 1-Hour Ozone Redesignation Request and Maintenance Plan to prepare a revised maintenance plan eight years after redesignation to attainment.

7. Motor Vehicle Emissions Budgets (MVEBs)

In addition to meeting the criteria for redesignation, as a control strategy SIP, the maintenance plan must contain MVEBs that, in conjunction with emissions from all other sources, are consistent with attainment and maintenance. An MVEB is the total allowable VOC and NO_X emissions allocated to highway and transit vehicle use during the maintenance period (highway and transit vehicle use emissions impacted by transportation plans are projected to 2015 and tested against the 2015 motor vehicle emissions budget). The rules and requirements governing transportation conformity require certain transportation activities to be consistent with the MVEBs contained in emission control SIPs (40 CFR 93.118). The projected emissions resulting from the transportation activities must be less than or equal to the emissions budget levels (40 CFR 93.118(a)). The review of the transportation plan impacts relative to the emissions budgets occurs after EPA declares that the emissions budgets meet the adequacy criteria of the transportation conformity rule under 40 CFR 93.118(e).

The MVEBs for the Phoenix metropolitan nonattainment area were developed using emission factors generated using EPA's MOBILE6 model. Arizona developed MVEBs for the maintenance plan years of 2006 and 2015. The MVEBs are for both VOC and NO_X, as precursors to ozone formation, and were applicable for the Phoenix metropolitan nonattainment area upon the effective date of the MVEB adequacy finding.

We found the budgets in the Redesignation Request and Maintenance Plan adequate in a letter to Nancy Wrona, Air Division Director, ADEQ and Dennis Smith, Executive Director of MAG, dated August 3, 2004. (*See also* 69 FR 51079, August 17, 2004.) The adequacy finding on the maintenance plan budgets was effective as of September 1, 2004.

EPA is proposing to approve the MVEBs included in Arizona's maintenance plans for conformity purposes. EPA believes that the submitted MVEBs are consistent with the control measures identified in the SIP, and that the SIP as a whole demonstrates maintenance with the 1-hour ozone standard. The 2006 and 2015 motor vehicle emission budgets included in the MAG maintenance plan are summarized in Table 6 below.

TABLE 6.—PHOENIX METROPOLITAN NONATTAINMENT AREA 2006 AND 2015 MOTOR VEHICLE EMISSION BUDGETS

[Emissions in metric tons per ozone season summer day]

Year	VOC	NO_X
2006	71.9	104.8
2015	48.7	53.6

8. Conclusion

We propose to approve the State's submittal (dated April 21, 2004) of MAG's Resignation Request and Maintenance Plan as a revision to the Arizona SIP. In doing so, we find that ADEQ and MAG have provided sufficient documentation of compliance with the notice and hearing requirements for SIP revisions under section 110(l) of the Act.[6]

V. Revision of Boundary of the Phoenix Metropolitan 1-Hour Ozone Nonattainment Area

At the request of the Gila River Indian Community and based on the evaluation provided below, EPA is proposing to change the boundary of the Phoenix Metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation (''Reservation'').

A. Background

1. Current Area Boundary, Designation, and Classification

Areas of the country were originally designated as attainment, nonattainment or unclassifiable following enactment of the 1977 Amendments to the CAA. See 43 FR 8962 (March 3, 1978). These designations were generally based on monitored air quality values compared to the applicable NAAQS. EPA originally designated all of Maricopa County as a nonattainment area for the photochemical oxidant NAAQS. See 43 FR 8962, 8968 (March 3, 1978). The following year, EPA approved a request by the State of Arizona to reduce the size of this nonattainment area to include only the Maricopa Association of Governments (MAG) Urban Planning Area (*see* 44 FR 16388, March 19, 1979), which included the Phoenix metropolitan area and also the northern quarter of the Gila River Indian Reservation (most of the reservation lies

[6] MAG and ADEQ held a joint public hearing for the Redesignation Request and Maintenance Plan on March 1, 2004. The MAG Regional Council adopted the Redesignation and Maintenance Plan on March 25, 2004 and ADEQ adopted the Redesignation Request and Maintenance Plan on April 21, 2004.

within Pinal County). We refer to this area in this notice as the Phoenix metropolitan 1-hour ozone nonattainment area. Also in 1979, we established a new ozone NAAQS to replace the photochemical oxidant NAAQS (*see* 44 FR 8202, February 8, 1979) but retained the designation of ''nonattainment'' for the new ozone NAAQS for the Phoenix metropolitan 1-hour nonattainment area.

Under the 1990 Clean Air Act Amendments, the designation of ''nonattainment'' for the Phoenix metropolitan 1-hour ozone nonattainment area was carried forward by operation of law, and pursuant to the 1990 amended Act, the Phoenix metropolitan nonattainment area was further classified as ''moderate'' nonattainment. See 56 FR 56694, 56717 (November 6, 1991). The nonattainment area boundary remained the same, *i.e.*, the MAG Urban Planning Area. On November 6, 1997, the MAG 1-hour ozone nonattainment area was reclassified to serious due to a failure to attain the 1-hour ozone standard by November 15, 1996. The reclassification was effective February 13, 1998. See 62 FR 60001 (November 6, 1997) and 63 FR 7290 (February 13, 1998).

Area boundaries and area classifications have been amended over the years under the applicable CAA provisions, either by request of a state, by operation of law, or by EPA initiative. For the State of Arizona, the current area designations and classifications are codified at 40 CFR 81.303.

2. Gila River Indian Community's Request for a Boundary Change

On March 2, 2005, the Gila River Indian Community (''Community''), a federally-recognized tribal government,[7] submitted a request to EPA to correct the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Reservation.[8] The Community's request included background information and analysis of air quality data existing at the time of and subsequent to the designation in 1978 as well as the nature of the ozone sources on the Reservation demonstrated that the Reservation has not had a monitored or predicted violation of the 1-hour ozone NAAQS since, and that no significant sources of ozone precursor emissions exist on the Reservation. The Community's request and supporting documentation are included in the docket for this proposed action.

B. EPA Review of the Community's Request

1. EPA's Authority to Change Boundaries

The Community requested that EPA act under section 110(k)(6) to correct the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area, and while we agree that a revision to the boundary to exclude the Reservation is warranted, we have decided to redesignate the boundary of the area under section 107(d)(3)(A) of the Act rather than to correct the boundary under section 110(k)(6). Under section 107(d)(3)(A), EPA has the authority to revise the boundary of a nonattainment area on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate.

2. The Gila River Indian Reservation Airshed

The Gila River Indian Reservation consists of approximately 374,000 acres in south central Arizona, south of the Phoenix metropolitan area. Currently, the MAG 1-hour ozone nonattainment area includes the northern 92,000 acres of the Reservation. The Reservation is physically separated from the Phoenix metropolitan area by the Sierra Estrella and South Mountain Ranges. The Sierra Estrella Mountain Range runs north and south along the western edge of the Reservation. The South Mountain Range runs diagonally in a northeasterly direction, between one and five miles beyond the northern Reservation boundary. These mountain ranges act as a physical barrier between the two airsheds.

A segment of the northern border of the Reservation adjacent to Chandler does not have a topographical barrier to air pollution transport. However, the prevailing winds flow to the northeast, sending ozone emissions from Chandler away from the Reservation. Along the northeastern border of the Reservation, the Santan Mountain Range separates the Reservation from Gilbert and Apache Junction.

The Reservation has a population of approximately 11,250 people, with a population density of approximately 20 people per square mile. There are no major population centers within the Reservation. By comparison, Maricopa County (including vast rural areas west of the urban area, which are not part of the nonattainment area) has a population of over 3 million, with a population density of over 230 people per square mile.

3. Ozone and the Reservation

In general, ambient ozone concentrations are caused by on-road and nonroad mobile emissions sources, area sources, large stationary sources and biogenic sources that emit VOCs and NO_X. The level of mobile source emissions, often the largest part of the inventory in a major metropolitan area, can be generally correlated to population density and land use patterns. The Community population density of 20 people per square mile is minor compared to all of Maricopa County, which has a density of over 230 people per square mile. Commuting patterns on the Reservation are virtually nonexistent. Approximately 2,200 cars, trucks and vans commute to work within the Reservation, compared to 1,250,000 in Maricopa County. There is little economic integration with commercial development in metropolitan Phoenix, and the Reservation remains largely rural and agricultural. The Community plans to expand its agricultural base by investing millions of dollars in agricultural infrastructure.

There is only one major source of emissions in the Community, an aluminum extrusion facility. Based on an inventory prepared by the Community for year 1997 and the fact that sources within the Community have not changed in any significant way since then, the Community estimates that total annual emissions of ozone precursor pollutants are approximately 1,000 tons of VOCs and 1,900 tons of NO_X for the entire Community. For the purposes of comparison with the other emissions estimates cited in this notice, total Community emissions are approximately 2.5 metric tons per day (mtpd) of VOCs and 4.7 mtpd of NO_X on an annual average basis. In that part of the Community that is within the Phoenix nonattainment area, the Community estimates that there are 250 tons of VOC and 490 tons of NO_X per year (equivalent to 0.6 mtpd of VOC and 1.2 mtpd of NO_X). Emissions of VOCs from the Community portion of the nonattainment area represent less than 0.002% and 0.006% of VOC and NO_X emissions, respectively, of total estimated emissions generated within the Phoenix metropolitan nonattainment area. Thus, total emissions from the Community are not sufficient to cause or contribute to violations of the 1-hour standard or otherwise have a measurable impact on rest of the Phoenix metropolitan

[7] See 67 FR 46328, 46329 (July 12, 2002).

[8] As noted previously, the Phoenix metropolitan 1-hour ozone nonattainment area includes the portion of the Reservation that lies within Maricopa County, approximately the northern 25 percent of the Reservation.

nonattainment area. High 1-hour ozone concentrations in the Phoenix metropolitan nonattainment area are associated almost exclusively with summertime temperatures and meteorological patterns. During the summer months, the natural wind patterns in the Salt River Valley are from the west toward the northeast, causing air pollutants from Phoenix to be transported away from the Gila River Indian Reservation. Therefore, there is substantial basis for concluding that the Reservation is an insignificant generator of ozone emissions.

4. Ozone Planning Issues

Attainment of the 1-hour ozone NAAQS in the Phoenix metropolitan area was achieved by Arizona through the SIP planning process. It is important to note that, under the CAA, the State and local air pollution control agencies do not have authority to administer air regulatory programs over the Reservation; consequently, the SIP rules that were applied to the metropolitan area and resulted in attainment of the NAAQS did not apply to the Reservation. Furthermore, due to the Reservation's lack of ozone precursor sources, it was never considered necessary to apply ozone precursor limits to sources on the Reservation.[9]

Just as it was clear that it was not necessary for an attainment plan to be applicable to the Reservation for the Phoenix metropolitan nonattainment area to attain the 1-hour ozone NAAQS, it is clear to EPA that it will not be necessary for a maintenance plan to be applicable to the Reservation for the Phoenix metropolitan nonattainment area to maintain attainment of the 1-hour ozone NAAQS.

C. Conclusion and Effect of Revising the Boundary of the Phoenix Metropolitan 1-Hour Ozone Nonattainment Area

In view of the above considerations, EPA believes that it is appropriate to exercise discretionary authority under section 107(d)(3)(A) and to propose to revise the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation. Geographical and meteorological factors support the conclusion that the Reservation is not significantly affected by emissions generated in the Phoenix metropolitan area nor is the Phoenix metropolitan area affected by emissions generated within the Reservation. The effect of this proposed action would be to attach the Maricopa County portion of the Gila River Indian Reservation to the pre-existing ''unclassifiable/attainment'' area for the 1-hour ozone NAAQS that consists of all of those portions of the State of Arizona (including the rest of the Reservation that lies in Pinal County) that are not designated as a ''nonattainment'' area or as an ''attainment'' area that is subject to a maintenance plan. Also, this proposed action would eliminate any remaining obligations to develop plans or measures to attain and maintain the 1-hour ozone NAAQS or to implement nonattainment NSR within the Maricopa County portion of the Gila River Indian Reservation.

We note that this proposed action to revise the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation is consistent with EPA's 2004 rule establishing an 8-hour ozone nonattainment area for the metropolitan Phoenix area, *i.e.*, in both instances the Gila River Indian Reservation is excluded from the ozone nonattainment area. See 69 FR 23858, 23878 (April 30, 2004). Finally, we propose to interpret our proposed action herein to eliminate the requirement to develop a section 110 maintenance plan that would otherwise have been required for the Maricopa County portion of the Gila River Indian Reservation because of its 1-hour NAAQS designation (*i.e.*, nonattainment) at the time when the 8-hour ozone designations final rule was signed by the EPA Administrator (April 15, 2004). See 69 FR 23951, 23999 (April 30, 2004).

VI. Proposed Action

We are soliciting comments on all aspects of this proposed SIP rulemaking action. We will consider your comments in deciding our final action if your comments are received by April 20, 2005.

We are proposing, under the Clean Air Act, to fully approve three revisions to the Arizona SIP submitted to us by ADEQ and related to the Phoenix metropolitan nonattainment area for the 1-hour ozone NAAQS. First, under sections 182(c)(4)(B) and 110(k)(3) of the Clean Air Act (CAA, or ''the Act''), we are proposing to approve the State of Arizona's request to ''opt-out'' of the Clean Fuel Fleet (CFF) program and to approve the Cleaner Burning Gasoline (CBG) program as a substitute measure. Second, we are proposing to approve, under section 110(k)(3) of the Act, the State's submittal of the *Final Serious Area Ozone State Implementation Plan for Maricopa County* as meeting the applicable requirements for serious 1-hour ozone nonattainment areas. Third, under sections 107(d)(3)(D) and 110(k)(3), we are proposing to approve the State's submittal of the *One-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area* as meeting CAA requirements for redesignation requests and maintenance plans under sections 107(d)(3)(E) and 175A. However, this proposal is contingent upon final approval by EPA of three separate proposed rulemakings involving two Maricopa County rules, a negative declaration, and a set of permit conditions imposing reasonably available control technology on a specific stationary source. As part of our approval of the maintenance plan, we are proposing to approve the 2006 and 2015 motor vehicle emissions budgets (MVEBs) for VOC and NO_X in the submitted maintenance plan for transportation conformity purposes.

In addition, we are proposing, under section 107(d)(3)(A) of the Act, to revise the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation. This proposed action would add the Maricopa County portion of the Reservation to the current unclassifiable/attainment area within the State of Arizona for the 1-hour ozone NAAQS and would relieve the Agency and Gila River Indian Community from the need to develop plans and measures that are not necessary to provide for attainment and maintenance of the 1-hour or 8-hour ozone NAAQS.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements, reduce the size of a nonattainment area, and redesignate the area (as modified) to attainment for air quality planning purposes and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the

[9] EPA could have applied VOC or NO_X limits to sources on the Reservation, as it has authority under CAA 301(d) to promulgate regulations for Indian country as necessary or appropriate ''to achieve the appropriate purpose'' of the Act.

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the proposed regulation.

EPA has concluded that this proposed rule may have tribal implications. EPA's action will revise the boundary of the Phoenix metropolitan 1-hour ozone nonattainment maintenance area to exclude the Gila River Indian Reservation. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to this rule.

Consistent with EPA policy, EPA nonetheless consulted with representatives of tribal governments early in the process of developing this proposal to permit them to have meaningful and timely input into its development. Representatives of tribal governments approached EPA two years ago and requested that EPA make this boundary change. We agree with the technical and policy rationale the tribes provided, and believe that all tribal concerns have been met.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, reduce the size of a nonattainment area, and redesignate the area (as modified) to attainment for air quality planning purposes and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions and redesignation requests, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission or redesignation request for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission or redesignation request, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: March 14, 2005.

Wayne Nastri,

Regional Administrator, Region 9.

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