

submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 7, 1997.

William J. Muszynski,
Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(62) to read as follows:

§ 52.1570 Identification of plan.
* * * * *

(c) * * *

(62) Revisions to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds from consumer and commercial products, dated January 25, 1996 submitted by the New Jersey Department of Environmental Protection (NJDEP).

(i) Incorporation by reference.

(A) Title 7, Chapter 27, Subchapter 24, of the New Jersey Administrative Code entitled "Control and Prohibition of Volatile Organic Compounds from Consumer and Commercial Products" effective November 6, 1995.

(ii) Additional material.

(A) January 25, 1996 letter from Robert C. Shinn, Jr., NJDEP, to Jeanne M. Fox, EPA, requesting EPA approval of Subchapter 24.

3. In 52.1605 the table is amended by adding a new entry for Subchapter 24 under the heading "Title 7, Chapter 27" to the table in numerical order to read as follows:

§ 52.1605 EPA—approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * * Title 7, Chapter 27	*	*	*
* * * * * Subchapter 24, "Control and Prohibition of Volatile Organic Com- pounds from Consumer and Commercial Products".	Nov. 6, 1995	May 2, 1997 66 FR.	*
* * * * *	*	*	*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[LA-38-1-7322; FRL-5814-3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plan for Calcasieu Parish; Redesignation of Calcasieu Parish to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 6, 1997, EPA published a notice of proposed rulemaking discussing its decision to approve a revision to the Louisiana

State Implementation Plan (SIP) to redesignate Calcasieu Parish to attainment for ozone. See **Federal Register** (62 FR 5555). No adverse comments were received during the 30-day comment period. This rule finalizes EPA's decision to approve the redesignation of Calcasieu Parish, Louisiana to attainment for ozone.

EFFECTIVE DATE: This action is effective on June 2, 1997.

ADDRESSES: Copies of the State's request and other information relevant to this action are available for inspection during normal hours at the following locations:

- Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.
- Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.
- Louisiana Department of Environmental Quality, Office of Air Quality, 7290

Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wishing to review this document at the EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7219.

SUPPLEMENTARY INFORMATION: The specific rationale EPA used to approve the redesignation of Calcasieu Parish to attainment for ozone was explained in the proposed rulemaking and will not be restated here. This rule announces EPA's final action regarding approval of the redesignation request.

I. Final Rulemaking Action

In this final action EPA is promulgating a revision to the Louisiana SIP and the Code of Federal Regulations, parts 52 and 81, to

redesignate the Calcasieu Parish to attainment for ozone. This redesignation request was submitted by the Governor to EPA by letter dated December 20, 1995.

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

II. Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (Act) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed

into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2) of the Act.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: April 10, 1997.

Jerry Clifford,

Acting Regional Administrator.

40 CFR Parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(73) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(73) The Louisiana Department of Environmental Quality submitted a redesignation request and maintenance plan for Calcasieu Parish on December 20, 1995. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act. The redesignation meets the Federal requirements of section 182(a)(1) of the Act as a revision to the Louisiana ozone State Implementation Plan for Calcasieu Parish. The EPA therefore approved the request for redesignation to attainment with respect to ozone for Calcasieu Parish on June 2, 1997.

(i) Incorporation by reference. Letter dated December 20, 1995, from Governor Edwin E. Edwards of Louisiana to Ms. Jane Saginaw, Regional Administrator, transmitting a copy of the Calcasieu Parish maintenance plan and requesting the redesignation of Calcasieu Parish to attainment for ozone.

(ii) Additional material. The ten year ozone maintenance plan, including emissions projections and contingency measures, submitted to EPA as part of the Calcasieu Parish redesignation request on December 20, 1995.

3. Section 52.975 is amended by adding paragraph (e) to read as follows:

§ 52.975 Redesignations and maintenance plans: ozone.

* * * * *

(e) Approval—The Louisiana Department of Environmental Quality submitted a redesignation request and maintenance plan for Calcasieu Parish on December 20, 1995. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act. The redesignation meets the

Federal requirements of section 182(a)(1) of the Act as a revision to the Louisiana ozone State Implementation Plan for Calcasieu Parish. The EPA therefore approved the request for redesignation to attainment with respect to ozone for Calcasieu Parish on June 2, 1997.

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

2. In § 81.319, the ozone table is amended by revising the entry for Calcasieu Parish under "Lake Charles Area" to read as follows:

§ 81.319 Louisiana.

* * * * *

PART 81—[AMENDED]

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

LOUISIANA—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date	Type
Lake Charles Area Calcasieu Parish	June 2, 1997	Attainment		

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

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[FR Doc. 97-11159 Filed 5-1-97; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[ME3-1-5258a; A-1-FRL-5815-2]

Approval and Promulgation of Redesignation; Maine; Redesignation of Millinocket to Attainment for Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a redesignation request submitted by the State of Maine. This request will redesignate Millinocket, ME from nonattainment to attainment for sulfur dioxide (SO₂). This action is being taken in accordance with the Clean Air Act.

DATES: This action will become effective July 1, 1997, unless notice is received by June 2, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystems Protection, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of

Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE-131), Washington, D.C. 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333;

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, (617) 565-3568.

SUPPLEMENTARY INFORMATION: On April 30, 1984, the Maine Department of Environmental Protection (DEP) submitted a request to redesignate the area of Millinocket, ME from nonattainment to attainment for SO₂. The area was designated nonattainment in 1978 based on several monitored exceedences of the 24-hour National Ambient Air Quality Standard (NAAQS) for SO₂.

Section 107(d)(3)(D) of the Clean Air Act of 1990 (CAA) allows the Governor of a state to request the redesignation of an area designated nonattainment to attainment.

Section 107(d)(3)(E) of the CAA lists the requirements which must be met before EPA can redesignate an area to attainment.

Background

In 1978, Millinocket was declared nonattainment for SO₂. The only significant source of SO₂ in the area is a paper mill, operated at the time by the Great Northern Paper Company. The mill is currently operated by Bowater, Inc. In 1980, a sulfur dioxide attainment

plan for Millinocket was submitted and approved by EPA (45 FR 81941).

After this plan was approved, the area maintained compliance with the NAAQS for 12 consecutive quarters, and on December 29, 1983, the Governor of the State of Maine submitted a request to redesignate the area to attainment. EPA determined that the original request was incomplete since the monitored data alone was not sufficient to declare the area attainment. Maine DEP resubmitted the request accompanied by a modeling study on April 30, 1984. EPA then determined that the request was complete on June 19, 1984.

EPA was unable to process the redesignation request, however, because of a pending challenge to the use of "merged" stacks to comply with the ambient standards. See *NRDC v. Thomas*, 838 F.2d 1224 (D.C. Cir. 1988), cert. denied 109 S.Ct. 219 (1988). As part of the attainment plan, Great Northern had built a single merged stack for three exhaust streams. Litigants in *NRDC v. Thomas* had challenged whether it was proper to consider such a configuration in a modeling study. EPA has determined that these air streams were merged for sound economic and engineering reasons prior to 1985, and that sulfur emissions did not increase as a result of the merged stack. Therefore, EPA has determined that the merged stack is not a dispersion technique and may be included in the modelling. See 40 CFR 51.100(hh)(2)(ii)(C) and *NRDC v. Thomas*, 838 F.2d at 1255. The publicly available docket supporting this action