

FOR FURTHER INFORMATION CONTACT: Mr. Samuel R. Mitz at (214) 665-8370.

SUPPLEMENTARY INFORMATION: On page 53642, the third column, under § 52.970(c)(69)(i)(A), paragraph (A) is corrected to read:

(A) Revisions to Regulation Louisiana Administrative Code 33:III.Chapter 5, Section 509, effective February 20, 1995: Section B. Definitions: Baseline Date; Section B. Definitions: Net Emissions Increase; Section D. Ambient Air Increments; Section I.8.a.; Section K.2; and Section P.4.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (P.L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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).

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

Dated: February 11, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97-4964 Filed 2-27-97; 8:45 am]

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40 CFR Parts 52 and 81

[ME47-1-6996a; A-1-FRL-5693-5]

Approval and Promulgation of Air Quality Implementation Plans; Maine, and Redesignation of Hancock and Waldo Counties; Maine

AGENCY: Environmental Protection Agency (USEPA or Agency).

ACTION: Direct final rule.

SUMMARY: EPA is approving two requests from the State of Maine: approval of the Maine 1990 base year inventory into the Maine State Implementation Plan (SIP), referred to as the SIP revision; and a redesignation request by the State of Maine for the Hancock and Waldo counties marginal nonattainment area, referred to as the redesignation request. These actions are being taken in accordance with the Clean Air Act (CAA or the Act). The first request will establish the 1990 base year ozone emission inventories of volatile organic compounds (VOC) and oxides of nitrogen (NOx) emissions for the classified ozone nonattainment areas in Maine. The second request will redesignate the Hancock and Waldo counties marginal ozone nonattainment area from nonattainment to attainment. The second request also contains a 1993 attainment emissions inventory that will satisfy Hancock and Waldo counties requirement for a 1993 periodic inventory. A detailed rationale for the two approvals is set forth in **SUPPLEMENTARY INFORMATION.**

DATES: This action is effective on April 29, 1997, unless adverse or critical comments are received by March 31, 1997. 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 Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, 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 Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: For the base year inventory, Robert McConnell, (617) 565-9266, and for the Hancock and Waldo counties redesignation request Richard P. Burkhardt, (617)-565-3578.

SUPPLEMENTARY INFORMATION:

I. Summary of SIP Revision

Summary

The EPA today is approving SIP revisions submitted by the State of Maine, under sections 110 and 182 of the Act. These revisions consist of the establishment of the 1990 base year ozone emission inventories for the ozone nonattainment areas in Maine. These SIP revisions have been found by EPA to meet the EPA's approval criteria for emission inventories.

Supplementary Information on SIP Revision

Maine submitted 1990 base year emission inventories for the ozone nonattainment areas in the State in final form on July 25, 1995. This portion of this document is divided into three parts:

- I. Background Information
- II. Summary of SIP Revision
- III. Final Action

I. Background

Emission Inventory

Under the CAA as amended in 1990, States have the responsibility to inventory emissions contributing to nonattainment of a National Ambient Air Quality Standard (NAAQS), to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAA requires ozone nonattainment areas designated as moderate, serious, severe, and extreme to submit a plan within three years of 1990 to reduce VOC emissions by 15 percent within six years after 1990. The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year inventory to exclude biogenic emissions and to exclude certain emission reductions not creditable towards the 15 percent. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress (RFP) projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the "Emission Inventory Requirements for Ozone State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. A copy of this guidance is available from EPA at the regional office listed in the address section of this document. The base year inventory may also serve as part of

statewide inventories for purposes of regional modeling in transport areas. The base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above.

The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182 (a)–(e) of title I of the CAA. The EPA has issued a General Preamble describing the EPA's preliminary views on how the agency intends to review SIP revisions submitted under title I of the Act, including requirements for the preparation of the 1990 base year inventory (see 57 FR 13502 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). In this action EPA will rely on the General Preamble's interpretation of the CAA, and the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in today's rule and the supporting rationale.

Those States containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the CAA to submit a final, comprehensive, accurate, and current inventory of actual ozone season, weekday emissions from all sources within 2 years of enactment (November 15, 1992). This inventory is for calendar year 1990 and is denoted as the base year inventory. It includes both anthropogenic and biogenic sources of volatile organic compound (VOC), nitrogen oxides (NO_x), and carbon monoxide (CO). The inventory is to address actual VOC, NO_x, and CO emissions for the area during a peak ozone season, which is generally comprised of the summer months. All stationary point and area sources, as well as mobile sources within the nonattainment area, are to be included in the compilation. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

II. Analysis of State Submission

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing emission inventory submissions to the EPA. Section 110(a)(2) of the Act provides that each emission inventory submitted by a State must be adopted after reasonable notice and public hearing.¹ Final approval of the inventory will not occur until the State revises the inventory to address

public comments. Changes to the inventory that impact the 15 percent reduction calculation and require a revised control strategy will constitute a SIP revision. EPA created a "de minimis" exception to the public hearing requirement for minor changes. EPA defines "de minimis" for such purposes to be those in which the 15 percent reduction calculation and the associated control strategy or the maintenance plan showing, do not change. States will aggregate all such "de minimis" changes together when making the determination as to whether the change constitutes a SIP revision. The State will need to make the change through the formal SIP revision process, in conjunction with the change to the control measure or other SIP programs.² Section 110(a)(2) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The State of Maine held several public hearings on its ozone emission inventories, the last of which occurred on June 28, 1995. The inventories were submitted to the EPA as a SIP revision on July 25, 1995, by cover letter from the Governor's designee. The inventories had originally been submitted to the EPA in December of 1992. At that time, they were reviewed by the EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The inventories were found to be complete except for the public hearing requirement. The EPA determined that for inventories that had not met the public hearing requirement, a finding of completeness would be made contingent upon the State fulfilling the public hearing requirement.³ The submittal was found to be complete contingent upon the State fulfilling the public hearing requirement, and a letter dated February 24, 1993, was forwarded to the State indicating the completeness of the submittal. The re-submittal of the

²Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I-X, "Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas," September 29, 1992, a copy of which is available from EPA Region I.

³Memorandum from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, Regions I-X, "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines" October 28, 1992, a copy of which is available from EPA Region I.

Maine base year emission inventories in July of 1995, and the accompanying documentation that the inventories had been subject to a public hearing, have fulfilled this obligation.

The EPA Region I Office has compared the final Maine emission inventories with the deficiencies noted in the various comment letters sent by EPA to the DEP and concluded that Maine has adequately addressed the issues raised by the EPA.

B. Emission Inventory Review

Section 110(k) of the CAA sets out provisions governing the EPA's review of SIP submissions, including base year emission inventory submittals in order to determine approval or disapproval under section 182(a)(1) (see 57 FR 13565–66 (April 16, 1992)). The EPA is approving the Maine ozone base year emission inventories submitted to the EPA in final form on July 25, 1995, based on the Level I, II, and III review findings. This section outlines the review procedures performed to determine if the base year emission inventory is acceptable or should be disapproved.

The Level I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the State and assesses whether the emissions were developed according to current EPA guidance.

The Level III review process is outlined here and consists of 10 points that the inventory must include. For a base year emission inventory to be acceptable it must pass all of the following acceptance criteria:

1. An approved Inventory Preparation Plan (IPP) was provided and the Quality Assurance (QA) program contained in the IPP was performed and its implementation documented.

2. Adequate documentation was provided that enabled the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

3. The point source inventory must be complete.

4. Point source emissions must have been prepared or calculated according to the current EPA guidance.

5. The area source inventory must be complete.

6. The area source emissions must have been prepared or calculated according to the current EPA guidance.

7. Biogenic emissions must have been prepared according to current EPA guidance or another approved technique.

¹Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

8. The method (e.g., Highway Performance Modeling System or a network transportation planning model) used to develop vehicle miles travelled (VMT) estimates must follow EPA guidance, which is detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources", U.S. Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992, a copy of which is available from EPA Region I.

9. The MOBILE model was correctly used to produce emission factors for each of the vehicle classes.

10. Non-road mobile emissions were prepared according to current EPA guidance for all of the source categories.

The base year emission inventory will be approved if it passes Levels I, II, and III of the review process. Detailed Level I and II review procedures can be found in "Quality Review Guidelines for 1990 Base Year Emission Inventories," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. Level III review procedures are specified in EPA memoranda.⁴

Maine's base year emission inventories meets each of these ten criteria. Documentation of the EPA's evaluation, including details of the

review procedure, is contained within the technical support document prepared for the Maine 1990 base year inventories, which is available to the public as part of the docket supporting this action.

III. Final Action on SIP Revision

Maine has submitted a complete inventory containing point, area, biogenic, on-road mobile, and non-road mobile source data, and accompanying documentation. Emissions from these sources are presented in the following table:

VOC

[Ozone seasonal emissions in tons per day]

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
Portland	31.80	9.65	49.87	7.40	197.60	296.32
Lewiston-Auburn	14.95	2.29	20.92	3.74	122.70	164.60
Knox & Lincoln Co	4.85	0.86	6.43	1.09	68.00	81.22
Hancock & Waldo Co	7.18	1.93	8.85	1.32	216.40	235.69

NO_x

[Ozone Seasonal Emissions in Tons Per Day]

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
Portland	6.13	19.38	62.47	4.41	NA	92.39
Lewiston-Auburn	3.08	4.49	24.36	2.28	NA	34.24
Knox & Lincoln Co	0.92	2.79	7.23	0.69	NA	11.63
Hancock & Waldo Co	1.11	5.49	11.12	0.96	NA	18.68

CO

[Ozone Seasonal Emissions in Tons Per Day]

NAA	Area source emissions	Point source emissions	On-road mobile emissions	Non-road mobile emissions	Biogenic	Total emissions
Portland	7.12	6.05	463.71	40.38	NA	517.26
Lewiston-Auburn	3.57	2.35	183.86	20.48	NA	210.26
Knox & Lincoln Co	1.26	0.06	46.88	6.20	NA	54.40
Hancock & Waldo Co	2.03	1.76	64.54	7.03	NA	75.36

Maine has satisfied all of the EPA's requirements for providing a comprehensive, accurate, and current inventory of actual ozone precursor emissions for its ozone nonattainment areas. The inventories are complete and approvable according to the criteria set out in the November 12, 1992 memorandum from J. David Mobley,

Chief Emission Inventory Branch, TSD to G. T. Helms, Chief Ozone/Carbon Monoxide Programs Branch, AQMD. In today's final action, the EPA is fully approving the SIP 1990 base year ozone emission inventories submitted by Maine to the EPA for the Portland, Lewiston-Auburn, Knox and Lincoln Counties, and Hancock and Waldo

Counties nonattainment areas as meeting the requirements of sections 182(a)(1) and 172(c)(3) of the CAA.

The EPA has reviewed these requests for revision of the federally approved SIP for conformance with the provisions of the Clean Air Act Amendments. The EPA has determined that this action conforms with those requirements.

⁴Memorandum from J. David Mobley, Chief, Emissions Inventory Branch, to Air Branch Chiefs, Region I-X, "Final Emission Inventory Level III

Acceptance Criteria," October 7, 1992; and memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air

Division Directors, Region I-X, "Emission Inventory Issues," June 24, 1993. All of these memoranda are available from EPA Region I.

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, in relation to relevant statutory and regulatory requirements.

IV. Summary of Redesignation Request

Background

The Hancock and Waldo Counties (hereafter H-W) ozone nonattainment area is designated nonattainment for ozone and is classified as marginal (56 FR 56694). On May 13, 1996 Maine submitted a request to have the H-W area redesignated to attainment. The H-W area had been granted a one-year extension of its attainment date (60 FR 33351).

Requirements for Redesignation

Under section 107(d)(3)(E) of the Act, the following five criteria must be met for an ozone nonattainment area to be redesignated to attainment:

1. The area must meet the ozone NAAQS.
2. The area must meet applicable requirements of section 110 and Part D of the Act.
3. The area must have a fully approved SIP under section 110(k) of the Act.
4. The area must show that its experienced improvement in air quality is due to permanent and enforceable measures, including the SIP and any applicable Federal requirements.
5. The area must have a fully approved maintenance plan under section 175A of the Act, including contingency measures.

EPA's Evaluation of Maine's Redesignation Request and Maintenance Plan for the H-W Area

Criterion 1: The area must meet the ozone NAAQS.

EPA's Evaluation: The area met the ozone standard with the 1993-1995 ozone data. The area continues to meet the ozone standard with preliminary 1996 data. The ozone data are complete and in the Aerometric Information Retrieval System (AIRS) for the McFarland Hills ozone monitoring site in Acadia National Park. That site has an expected exceedance rate per year of 0.3. The standard is an expected exceedance rate less than or equal to 1 (40 CFR Part 50 Appendix H).

An additional ozone monitoring site was begun on top of Cadillac Mountain in the park in 1995. That site began monitoring on July 25, 1996. As stated

in Appendix A "When one adjusts for the late start up, this site has a complete year of data; therefore giving it an expected exceedance rate of 1.0," which is attainment. In 1996 the preliminary data show no exceedance at either site. The State will continue to monitor in this area in accordance with 40 CFR part 58. All ozone data for this area are available in AIRS and can be obtained from EPA Region I.

Criteria 2 and 3 are similar and will be discussed together.

Criterion 2: The area must meet applicable requirements of section 110 and Part D.

EPA's Evaluation: EPA's redesignation policy requires an area to meet all requirements in section 110 and Part D of the Clean Air Act.

Criterion 3: The area must have a fully approved SIP under section 110(k) of the Act.

EPA's Evaluation: In order to meet this criteria, all applicable SIP elements must be approved into Maine's SIP for the H-W area.

Specific Elements

Section 110: General Requirements for Implementation Plans

Section 110(a)(2) of the Act lists the elements to be included in each SIP after adoption by the State and reasonable notice and public hearing. The elements include, but are not limited to, provisions for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; regulation of the modification or construction of stationary sources, including provisions for Part C (PSD) and D (NSR) preconstruction permit programs, criteria for stationary source emission control measures, monitoring, and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the H-W area SIPs were reviewed to ensure that all requirements under the Act were satisfied. EPA has determined that the individual SIPs are consistent with the requirements of section 110 of the Act.

Part D: General Provisions for Nonattainment Areas

Before any of the marginal nonattainment counties may be redesignated as attainment, they must fulfill the applicable requirements of Part D. Under Part D, an area's classification determines the requirements to which it is subject. Subpart 1 of Part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of

Part D establishes additional requirements for ozone nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble, specific requirements of Subpart 2 may override Subpart 1's general provisions, (57 FR 13501 (April 16, 1992)). The H-W area is classified as marginal nonattainment and is in the Ozone Transport Region (OTR). Therefore, in order to be redesignated, the State must meet the applicable requirements of Subpart 1 of Part D—specifically sections 172 and 176, as well as the applicable requirements of Subpart 2 of Part D, except for OTR requirements.

Section 172 Requirements

The H-W redesignation request has satisfied all of the relevant submittal requirements under section 172 necessary for the area to be redesignated to attainment.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The requirement was superseded by the inventory requirement in section 182(a)(1). The MEDEP submitted such an inventory on July 26, 1995. This inventory is being approved by EPA in this document.

Section 172(c)(5) requires permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The Maine NSR rules were approved by EPA on Feb. 14, 1996 (61 FR 5690).

Section 176 Conformity Requirements

EPA has previously interpreted the conformity requirements as not being applicable requirements for purposes of evaluating redesignation requests (60 FR 62748; December 7, 1995).

Subpart 2 Section 182 Requirements (Additional Requirements)

The H-W area is classified as marginal nonattainment. Therefore, Part D, Subpart 2, section 182(a) requirements apply. In accordance with guidance presented in the Shapiro memorandum,⁵ the requirements that were due prior to the submission of the requests to redesignate the area must be fully approved into the SIP before the requests to redesignate the area to attainment can be approved. Those requirements are discussed below:

⁵Memorandum from Michael H. Shapiro, Acting Assistant Admin. for Air and Radiation, to Regional Air Directors, "State Implementation Plan (SIP) Requirements for Areas Submitting Requests . . . on or After November 15, 1992," dated Sep 17, 1993, and available from EPA Region I.

(1) 1990 Base Year Inventory

The 1990 base year emission inventory was submitted to EPA on July 26, 1995 and found complete on July 26, 1995, and is being approved in this document.

(2) Permit Program

The Maine NSR rules were approved by EPA on Feb. 14, 1996 (61 FR 5690). An interim approval of Maine's Title V permit program was published (61 FR 49289). Final approval will be published soon.

(3) RACT Fix-Ups

Pursuant to the Section 182(a)(2)(A) RACT fix-up requirement, Maine submitted regulations for fixed roof petroleum tanks, bulk gasoline terminals, and paper coating sources which were approved by EPA on February 2, 1992 (57 FR 3946). In addition, the state submitted capture efficiency test procedures which were approved by EPA on March 22, 1993 (58 FR 15281). Thus, Maine has fulfilled the RACT fix-up requirement.

(4) Periodic Inventory

In the H-W redesignation request, the State of Maine has supplied a 1993 inventory for VOC and NO_x as part of its redesignation request. This inventory will also fulfill the required 1993 periodic inventory for Hancock and Waldo counties specified in CAA Section 182(3)(A).

(5) Emission Statements

The emission statements for Maine were approved by EPA on Jan. 10, 1995 (60 FR 2524).

(6) Offset Requirements

Section 182(a)(4) requires all major new sources or modifications in a marginal nonattainment area within the OTR to achieve offsetting reductions of precursors at a ratio of at least 1.1 to 1.0. Section 184 raises the ratio to 1.15 to 1, within the OTR. The Maine NSR rules were approved by EPA on Feb. 14, 1996 with an offset ratio of 1.15 to 1 (61 FR 5690).

Section 184 OTR Requirements

In a previous rulemaking (61 FR 53174, Oct. 19, 1996), EPA stated that since OTR requirements are regional in nature and EPA can sanction an area separately for failure to submit or failure to implement OTR requirements, these OTR measures would not be a requirement for redesignations. In sum, redesignation to attainment will not remove the requirements for Maine to adopt and implement any outstanding

section 184 measures in the Hancock and Waldo Counties area.

NO_x RACT Requirements

The H-W area received a waiver from NO_x RACT requirements (60 FR 66748).

Criterion 4: The area must show that its experienced improvement in air quality is due to permanent and enforceable measures.

EPA's Evaluation: The redesignation request has shown that, through fully adopted and implemented, permanent and enforceable state and federal measures, the area's air quality has improved. The request also shows that the meteorology for the period 1989 to 1995 was not unusual.

Several permanent and enforceable control measures have been put into place in the H-W area the most effective of which is the Federal Motor Vehicle Control Program. Decrease in transported ozone has also been a major factor in the improved air quality of this region. Since 1992 other programs have also been implemented in Maine, such as Non-CTG VOC RACT, Stage I gasoline vapor recovery on smaller stations, and reformulated gasoline.

Criterion 5: The area must have a fully approved maintenance plan under section 175A of the Act, including contingency measures.

EPA's Evaluation: The state of Maine chose 1993 to be its attainment year inventory and per EPA requirements must show maintenance out to 2006. The ME submittal (Table 2) shows a decrease trend in both VOC and NO_x emissions from 1993 to 2006, and none of the intermediate years have emissions above the 1993 base line.

TABLE 2.—MAINTENANCE INVENTORY FOR H-W AREA

[Summary of H-W VOC Emissions (tons per summer day)]

Sector	1993 attain	1996 proj.	2006 proj.
Area	5.9	5.6	6.0
Point	1.4	1.4	1.5
Mobile	8.3	7.9	6.7
Totals	15.7	14.9	14.2

[Summary of H-W NO_x Emissions (tons per summer day)]

Sector	1993 attain	1996 proj.	2006 proj.
Area	0.5	0.5	0.5
Point	5.7	5.8	5.1
Mobile	11.0	10.3	9.3
Totals	17.3	16.7	14.9

The above tables show that the level of total emissions in the attainment year, 1993, are not exceeded in either the interim year, 1996, or the final year, 2006. Note, the totals may not add-up due to rounding. The state submittal shows that intermediate years also remain below the 1993 baseline.

Contingencies for Approval

Sections 107(d)(3)(E)(iv) and 175A(d) of the Act require states to include contingency provisions to correct promptly any NAAQS violations that occur after redesignation. At a minimum the state must continue to implement all SIP ozone measures in place before redesignation.

EPA's Evaluation: Maine will continue to implement its ozone SIP. The Maine request listed several possible contingency measures for the H-W area. These include: Accelerated vehicle retirement, consumer product rules on adhesives, clean-fuel fleet programs, employee commute options, marine vessel loading, pesticide application controls, rule effectiveness improvements, Stage II gasoline vapor recovery, and Transportation Control Measures (TCM's).

If the H-W area were to violate the ozone NAAQS, the MEDEP would adopt the contingency measure that would be most appropriate to minimize future violations of the NAAQS.

V. Final Action on Redesignation Request

EPA is approving the redesignation request.

VI. Procedural Background

The Agency has reviewed the request for revision of the Federally-approved State implementation plan, and the request for redesignation for conformance with the provisions of the 1990 amendments enacted on November 15, 1990.

The EPA is publishing these actions without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision and the redesignation request should adverse or critical comments be filed. This action will be effective April 29, 1997 unless, by March 31, 1997, adverse or critical comments are received.

If the EPA receives such comments, the action to which those comments are relevant will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action(s). All public

comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on the action. Any parties interested in commenting on these actions should do so at this time. If no such comments are received, the public is advised that these actions will be effective April 29, 1997.

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

VII. Administrative Requirements

A. Executive Order 12866

These actions have been classified as a Table 3 actions 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 (OMB) has exempted these regulatory actions 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. 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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air 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, the Agency certifies 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 CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its

actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the air quality planning status of a geographical area and does not impose any regulatory requirements on sources. The Agency certifies that the approval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

Under Sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), 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 the 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.

EPA has determined that the approval actions promulgated do 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 pre-existing requirements under State or local law, and imposes no new 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) of the Regulatory Flexibility Act 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 the 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 29, 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).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: February 3, 1997.

John P. DeVillars,

Regional Administrator, Region I.

For the reasons set out in the preamble title 40, chapter I 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.

2. Section 52.1036 is added to subpart U to read as follows:

§ 52.1036 Emission inventories.

(a) The Governor's designee for the State of Maine submitted 1990 base year emission inventories for the Knox and Lincoln Counties area, the Lewiston and Auburn area, the Portland area, and the Hancock and Waldo Counties area on July 25, 1995 as a revision to the State Implementation Plan (SIP). The 1990 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for these areas.

(b) The inventory is for the ozone precursors which are volatile organic

compounds, nitrogen oxides, and carbon monoxide. The inventory covers point, area, non-road mobile, on-road mobile, and biogenic sources.

(c) The Knox and Lincoln Counties nonattainment area is classified as moderate. The Lewiston and Auburn nonattainment area is classified as moderate and consists of Androscoggin and Kennebec Counties. The Portland nonattainment area is classified as moderate and consists of Cumberland, Sagadahoc and York Counties. The Hancock and Waldo Counties

nonattainment area is classified as attainment.

(d) The Governor's designee for the State of Maine submitted 1993 periodic year emission inventories for the Hancock and Waldo Counties area on May 13, 1996 as a revision to the State Implementation Plan (SIP). The 1993 periodic year emission inventory requirement of section 182(3)(A) of the Clean Air Act, as amended in 1990, has been satisfied for the Hancock and Waldo counties area.

PART 81—[AMENDED]

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

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

2. In § 81.320 the "Maine-Ozone" table is amended by revising the entry for "Hancock County and Waldo County Area" to read as follows:

§ 81.320 Maine.

* * * * *

MAINE—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Hancock County and Waldo County Area:				
Hancock County	Apr. 29, 1997	Attainment.		
Waldo County	Apr. 29, 1997	Attainment.		

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

[FR Doc. 97-4963 Filed 2-27-97; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 63

[AD-FRL-5695-9]

RIN 2060-AD93

National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule: amendments.

SUMMARY: The EPA is promulgating, as a direct final rule, amendments to the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)" (the "Gasoline Distribution NESHAP"). These amendments implement a proposed settlement agreement with the American Petroleum Institute noticed for comment on November 15, 1996 regarding improvements in the screening equations for determining applicability of the Gasoline Distribution NESHAP. This action also addresses some clarifications to the NESHAP that were requested by other parties. These clarifications do not change the level of the standards or the intent of the NESHAP promulgated in 1994.

In the proposed rules section of this Federal Register, the EPA is proposing

a rule that is identical to this direct final rule. If significant, adverse comments are received on the proposed rule by the due date (see **DATES** section below), this direct final rule will be withdrawn and all such comments will be addressed in a subsequent final rule based on the proposed rule. If no significant, adverse comments are timely received on the proposed rule, then the direct final rule remains effective upon publication, and no further action is contemplated on the parallel proposal published today.

DATES: This rule is effective April 14, 1997, unless adverse comments are received by March 31, 1997. If adverse comments are received, the EPA will publish timely notice in the Federal Register withdrawing the direct final rule.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (Act), judicial review of NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of these direct final amendments. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A-92-38, category VIII 1997 Amendments, containing information considered by the EPA in developing the final amendments, is available for public

inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, except for Federal holidays, at the EPA's Air and Radiation Docket and Information Center, room M1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460; telephone (202) 260-7548. A reasonable fee may be charged for copying. This docket also contains information considered by the EPA in proposing and promulgating the original Gasoline Distribution NESHAP.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact the appropriate EPA regional or Office of Enforcement and Compliance Assurance (OECA) representative:

- Region I: Greg Roscoe, Air Programs Enforcement Office Chief, U.S. EPA, Region I, JFK Federal Building (SEA), Boston, MA 02203, Telephone number (617) 565-3221
- Region II: Kenneth Eng, Air Compliance Branch Chief, U.S. EPA, Region II, 290 Broadway, New York, NY 10007, Telephone number (212) 637-4080, Fax number (212) 637-3998
- Region III: Walter K. Wilkie, U.S. EPA, Region III (3AT12), 841 Chestnut Building, Philadelphia, PA 19107, Telephone number (215) 566-2150, Fax number (215) 566-2114
- Region IV: Lee Page, U.S. EPA, Region IV (AR-4), 100 Alabama Street, SW, Atlanta, GA 30303-3104, Telephone number (404) 562-9131, Fax number (404) 562-9095