

(5) Pipeline segments designed, constructed, maintained, and operated under DOT regulations but transferring under DOI regulation as of October 16, 1998, may continue to operate under DOT design and construction requirements until significant modifications or repairs are made to those segments. After October 16, 1998, MMS operational and maintenance requirements will apply to those segments.

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3. In § 250.1001, a definition of the term "DOI pipelines" is added in alphabetical order as follows:

§ 250.1001 Definitions.

* * * * *

DOI pipeline refers to a pipeline extending upstream from a point on the OCS where operating responsibility transfers from a producing operator to a transporting operator.

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4. Section 250.1007 is amended by revising the heading, revising paragraph (a) introductory text, and adding a new sentence at the end of paragraph (a)(2) to read as follows:

§ 250.1007 What to include in applications.

(a) Applications to install a lease term pipeline or for a pipeline right-of-way grant must be submitted in quadruplicate to the Regional Supervisor. Right-of-way grant applications must include an identification of the operator of the pipeline. Each application must include the following:

* * * * *

(2) * * * The schematic must indicate the point on the OCS at which operating responsibility transfers between a producing operator and a transporting operator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 083-0072a; FRL-6138-4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Kern County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following districts: Kern County Air Pollution Control District (KCAPCD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from wastewater separators, rubber tire manufacturing, and soil decontamination operations. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on October 16, 1998 without further notice, unless EPA receives relevant adverse comments by September 16, 1998. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812

Kern County Air Pollution Control District, 2700 M Street, Suite 290, Bakersfield, CA 93301

San Joaquin Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Patricia Bowlin, Rulemaking Office

(AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1188.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: KCAPCD Rule 414, Wastewater Separators; SJVUAPCD Rule 4681, Rubber Tire Manufacturing; and SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. These rules were submitted by the California Air Resources Board (CARB) to EPA on May 10, 1996; May 24, 1994; and October 13, 1995, respectively.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the San Joaquin Valley Area¹ and the Los Angeles-South Coast Air Basin Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that these areas' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call).² On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment

¹ Kern County is located in the San Joaquin Valley Area and the Southeast Desert Air Basin. At the time, SJVUAPCD did not exist, and KCAPCD had jurisdiction over all of Kern County. The San Joaquin Valley Area portion of Kern County was designated nonattainment. The Southeast Desert Air Basin portion of Kern County was designated as unclassified.

² EPA's SIP-Call applied to all of the KCAPCD, including the Southeast Desert Air Basin portion of Kern County.

guidance.³ EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas.

The San Joaquin Valley Area is classified as serious, and the Los Angeles-South Coast Air Basin Area is classified as extreme; therefore, these areas were subject to the section 182(a)(2)(A) RACT fix-up requirement and the May 15, 1991 deadline. This **Federal Register** action for the SCAQMD excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.⁴ The Southeast Desert Air Basin portion of Kern County is also classified as serious; however, this area was not a pre-amendment nonattainment area.⁵ Although the Southeast Desert Air Basin portion of Kern County was not subject to the statutory RACT fix-up requirement, it is still subject to the requirements of EPA's SIP-Call. See footnote 2. The substantive requirements of the SIP-Call are the same as those of the section 182(a)(2)(A) RACT fix-up requirement.

On March 20, 1991 the SJVUAPCD was formed. The SJVUAPCD has authority over the San Joaquin Valley Area, including the Kern County portion. KCAPCD retained authority over the Southeast Desert Air Basin portion of Kern County. See footnote 1.

The State of California submitted many revised RACT rules for

³ Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

⁴ The State has recently changed the names and boundaries of the air basins located within the Southeast Desert Modified AQMA. Pursuant to State regulation the Coachella-San Jacinto Planning Area is now part of the Salton Sea Air Basin (17 Cal. Code. Reg. § 60114); the Victor Valley/Barstow region in San Bernardino County and the Antelope Valley Region in Los Angeles County are a part of the Mojave Desert Air Basin (17 Cal. Code. Reg. § 60109). In addition, in 1996 the California Legislature established a new local air agency, the Antelope Valley Air Pollution Control District, to have the responsibility for local air pollution planning and measures in the Antelope Valley Region (California Health & Safety Code § 40106).

⁵ The San Joaquin Valley Area and the Los Angeles-South Coast Air Basin Area retained their nonattainment designations and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. The Southeast Desert Air Basin portion of Kern County was designated nonattainment on November 6, 1991. See 56 FR 56694 (November 6, 1991).

incorporation into its SIP on May 10, 1996; May 24, 1994; and October 13, 1995, including the rules being acted on in this document. This document addresses EPA's direct-final action for KCAPCD Rule 414, Wastewater Separators; SJVUAPCD Rule 4681, Rubber Tire Manufacturing; and SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. KCAPCD adopted Rule 414 on March 7, 1996. SJVUAPCD adopted Rule 4681 on December 16, 1993. SCAQMD adopted Rule 1166 on July 14, 1995. These submitted rules were found to be complete on July 19, 1996; July 14, 1994; and November 28, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V⁶ and are being finalized for approval into the SIP.

KCAPCD Rule 414 controls VOC emissions from petroleum refinery wastewater separators. SJVUAPCD Rule 4681 controls VOC emissions from rubber tire and recapping treadstock manufacturing facilities. SCAQMD controls VOC emissions from soil decontamination operations. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of districts' efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying

⁶ EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to KCAPCD Rule 414 is entitled "Control of Refinery Vacuum Producing Systems, Wastewater Separators and Process Unit Turnarounds" (EPA-450/2-77-025). The CTG applicable to SJVUAPCD Rule 4681 is entitled "Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires" (EPA-450/2-78-030). For some source categories, such as soil decontamination operations, EPA did not publish a CTG. Therefore, there is no CTG applicable to SCAQMD Rule 1166. In such cases, State and local agencies determine what controls are required to satisfy the RACT requirement by reviewing the operations of facilities within the affected source category. In that review, the technological and economic feasibility of the proposed controls are considered. In addition, for both CTG and non-CTG source categories, EPA has issued policy documents, such as the Blue Book referred to in footnote 3, to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On May 13, 1993, EPA approved into the SIP a version of KCAPCD Rule 414, Wastewater Separators, that had been adopted by KCAPCD on May 6, 1991. The submitted version of Rule 414 includes the following significant changes from the current SIP:

- Modified the definition of *Volatile Organic Compound (VOC)*.

- Changed the basis for exemption to a vapor pressure and throughput cutoff.

On June 23, 1994, EPA approved into the SIP a version of SJVUAPCD Rule 4681, Rubber Tire Manufacturing, that had been adopted by SJVUAPCD on May 16, 1991. The submitted version of Rule 4681 includes the following significant changes from the current SIP:

- Changed the rule number (from Rule 468.1 to Rule 4681) and the rule format.
- Added test methods and procedures.

There is currently no version of SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil, in the SIP. On February 12, 1993, EPA proposed limited approval and limited disapproval of the version of Rule 1166 adopted by SCAQMD on August 5, 1988 and submitted by CARB on March 26, 1990. EPA will not finalize action on this previous submittal of SCAQMD

Rule 1166 because today's action on the October 13, 1995 submittal of Rule 1166 supersedes EPA's earlier proposed action.

SCAQMD Rule 1166 includes the following provisions:

- Notification and monitoring requirements for persons excavating underground storage tanks.
- Mitigation plan requirements for persons handling VOC-contaminated soil.
- Control requirements for persons treating contaminated soil.
- Prohibition of uncontrolled aeration of contaminated soil.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, KCAPCD Rule 414, Wastewater Separators; SJVUAPCD Rule 4681, Rubber Tire Manufacturing; and SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

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

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective October 16, 1998 without further notice unless the Agency receives relevant adverse comments by September 16, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 16, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

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 Administrator 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).

C. Unfunded Mandates

Under Section 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 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 this approval action 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 pre-existing 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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **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 October 16, 1998. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 29, 1998.

Nora L. McGee,

Acting Regional Administrator, Region IX.

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 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(197)(i)(C)(2), (225)(i)(A)(3), and (231)(i)(B)(3) to read as follows:

§ 52.220 Identification of plan.

- * * * * *
- (c) * * *
- (197) * * *
- (i) * * *
- (C) * * *
- (2) Rule 4681, adopted on December 16, 1993.
- * * * * *
- (225) * * *
- (i) * * *
- (A) * * *
- (3) Rule 1166, adopted on July 14, 1995.
- * * * * *
- (231) * * *
- (i) * * *
- (B) * * *
- (3) Rule 414, adopted on March 7, 1996.
- * * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 187-0076a; FRL-6137-6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the

following districts: Mojave Desert Air Quality Management District (MDAQMD), San Diego County Air Pollution Control District (SDCAPCD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from aerospace coating operations. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on October 16, 1998 without further notice, unless EPA receives relevant adverse comments by September 16, 1998. If EPA received such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office, AIR-4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1197.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: MDAQMD Rule 1118, Aerospace Vehicle Parts and Products Coating Operations; SDCAPCD Rule 67.9, Aerospace Coating Operations; SJVUAPCD Rule 4605, Aerospace Assembly and Component Manufacturing Operations; and SCAQMD Rule 1124, Aerospace Assembly and Component Manufacturing Operations. These rules were adopted by the local air pollution control agencies on October 28, 1996; April 30, 1997; December 19, 1996; and December 13, 1996, respectively. The above rules were submitted by the California Air Resources Board to EPA on November 26, 1996; August 1, 1997; March 10, 1998; and August 1, 1997; respectively.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Mojave Desert portion of San Bernardino County, San Diego County, the South Coast Air Basin and the San Joaquin Valley Air Basin which encompassed the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD,¹ King County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County. See 43 FR 8964, 40 CFR 81.305. Because some of these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.² See 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the

¹At that time, Kern County included portions of two air basins: The San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1991).

²This extension was not requested for the following counties: Kern, King, Madera, Merced, and Tulare. Thus, the attainment date for these counties remained December 31, 1982.