requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.251 is added immediately following § 1.248 to read as follows:

§ 1.251 Unlocatable file.

(a) In the event that the Office cannot locate the file of an application, patent, or other patent-related proceeding after a reasonable search, the Office will notify the applicant or patentee and set a time period within which the applicant or patentee must comply with one of paragraphs (b)(1), (b)(2), or (b)(3) of this section.

(b) If an applicant or patentee has been given notice under paragraph (a) of this section that the Office cannot locate the file of a patent, application, or other patent-related proceeding after a reasonable search, applicant or patentee must do one of the following within the time period set in the notice:

(1) Provide a copy of the applicant's or patentee's record of all of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding, a list of such correspondence, and a statement that the copy is a complete and accurate copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding;

(2) Produce the applicant's or patentee's record of all of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding for the Office to copy, and provide a statement that the copy is a complete and accurate copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding; or

(3) If applicant or patentee does not possess a complete copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding, provide a copy of the applicant's or patentee's record (if any) of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding, a list of such correspondence, and a statement that applicant or patentee does not possess a complete copy of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding and that the copy provided is a complete and accurate copy of applicant's or patentee's record of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding.

(c) With regard to a pending application, failure to timely comply with one of paragraphs (b)(1), (b)(2), or (b)(3) of this section will result in abandonment of the application.

Dated: June 30, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00–17182 Filed 7–7–00; 8:45 am]

BILLING CODE 3510–16–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–042–01–6990b; A–1–FRL–6727–8]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire, Rhode Island, and Vermont; Aerospace Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve negative declarations submitted by the States of New Hampshire, Rhode Island, and Vermont for aerospace coating operations. In the Final Rules section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before August 9, 2000.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the States submittals are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England, One Congress Street, 11th floor, Boston, MA 02114–2023. Copies of New Hampshire's submittal are also available at Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095. Copies of Rhode Island's submittal are also available at Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767. Copies of Vermont's submittal are also available Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 918–1047.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: June 12, 2000.

Mindy S. Lubber,

Regional Administrator, EPA New England.

[FR Doc. 00–16627 Filed 7–7–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH 103–1b; FRL–6731–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a maintenance plan and redesignation of Cuyahoga and Jefferson Counties, Ohio, to attainment for particulate matter, specifically for particles known as PM_{10}.

Ohio requested this action on May 22, 2000. In proposing this action, EPA proposes to conclude that these areas are meeting the standard and have plans for assuring continued attainment. Although for administrative convenience EPA is only proposing action on the Ohio portion of the Steubenville area, this action reflects a review of air quality for the entire area and Ohio's fulfillment of its portion of an area-wide attainment plan that it developed jointly with West Virginia. EPA anticipates receiving and rulemaking in the near future on a similar request from West Virginia for redesignation of its portion of the Steubenville area.

This action reflects parallel processing of Ohio's request. Ohio has proposed to request redesignation of the above two counties. Ohio held a hearing on its proposed request on June 12, 2000, and anticipates making a final request for redesignation shortly thereafter. Since Ohio's final redesignation request will likely be similar to its proposed request, EPA is proposing approval action on Ohio's request. If the final request differs significantly from the proposed request, EPA will repropose action on the request. Otherwise, EPA anticipates proceeding directly to final action.

DATES: Written comments on this proposed rule must arrive on or before August 9, 2000.

ADDRESSES: Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at (312) 886–6067, before visiting the Region 5 Office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

I. Review of Redesignation Request

1. What Criteria Is EPA Using?

Ohio's letter of May 22, 2000, requests rulemaking on redesignation of Cuyahoga and Jefferson Counties from nonattainment to attainment for PM_{10}. The central criteria for redesignations from nonattainment to attainment are in section 107(d)(3)(E) of the Clean Air Act. EPA may not promulgate such a redesignation unless: (A) the area has attained the applicable NAAQS, (B) the area has a fully approved SIP under section 110(k) of the Act, (C) EPA has determined that the improvement in air quality in the area is due to permanent and enforceable emission reductions, (D) EPA has determined that the maintenance plan for the area has met all of the requirements of section 175A of the Act, and (E) the state has met all requirements applicable to the area under section 110 and part D of the Act.

EPA has issued a variety of relevant guidance. The most relevant guidance on redesignations is given in a September 4, 1992, memorandum issued by the Director of EPA's Office of Air Quality Planning and Standards. Guidance relevant to the evaluation of monitoring data is given in Appendix K of Title 40 Code of Federal Regulations Part 50 (40 CFR 50). Guidance relevant to maintenance plan review is included in the September 4, 1992, memorandum.

2. Are the Areas Attaining the Standards?

At issue in this rulemaking are designations promulgated on November 6, 1991, based on the PM_{10} standards as given in 40 CFR 50.6. EPA also set newer standards for PM_{10} as well as new standards for $PM_{2.5}$, promulgated on July 18, 1997, and codified at 40 CFR 50.7. EPA expected to promulgate designations for the newer PM_{10} standards and rescind the designations for the older PM_{10} standards, but the Circuit Court of Appeals for the District of Columbia has vacated the newer PM_{10} standards. While this court decision is under appeal, Ohio has requested that the still extant designations for Cuyahoga and Jefferson Counties for the older PM_{10} standards be changed from nonattainment to attainment.

The September 4, 1992 guidance recommends evaluating three years of representative monitoring data. Ohio monitors PM_{10} concentrations at numerous locations in Cuyahoga and Jefferson Counties, including locations expected to observe the highest concentrations in these counties. Detailed results of this monitoring are available in EPA's Air Information Retrieval System (AIRS) and on the internet at http://www.epa.gov/airsdata/monsum.htm. Ohio's submittal summarizes this air quality data and analyzes the expected likelihood of exceeding the air quality standards.

For Cuyahoga County, Ohio's submittal includes information from eight monitoring sites, six of which are located in the central part of Cleveland where emissions are highest and the highest concentrations are expected. Ohio provided data for the most recent three years, *i.e.,* 1997 to 1999. All sites recorded annual average concentrations below the annual average standard in all three years. Six of these eight sites also recorded no exceedances of the 24-hour standard. Two sites in central Cleveland recorded exceedances and must be analyzed with respect to expected exceedances.

The monitoring site in Cuyahoga that has been most likely to exceed air quality standards is site number 39–035–0013, at 2785 Broadway. During 1997 to 1999, this site recorded concentrations above the 24-hour average standard of 150 $\mu g/m^3$ on two days—once in 1998 and once in 1999. Therefore, Ohio analyzed expected exceedances for this site in accordance with Appendix K of 40 CFR 50. Appendix K provides procedures for estimating a probability number of exceedances expected for days without valid monitoring data. These procedures generally assume that the probability of an exceedance on days without valid monitoring data equals the probability of an exceedance among days with valid data for the same calendar quarter. For the 2785 Broadway site, for 1998, the monitor recorded 1 exceedance among the 86 days during the second quarter with valid data. Therefore, the 5 days during that quarter without valid data were estimated to have an additional ($5 \times 1/86$) or .06 expected exceedances, for a total of 1.06 expected exceedances. For 1999, this monitor recorded 1 exceedance during the 85 days of the first quarter with valid data, so the remaining 5 days were estimated to have ($5 \times 1/85$) or .06 expected exceedances, for a total of 1.06 expected exceedances. The three year average at

this site is therefore 0.7 expected exceedances. Since the 24-hour standard is met when the average number of expected exceedances of 150 μg/m³ is 1.0 or less, this indicates attainment of this standard.

The other monitoring site with a measured exceedance is site number 39–035–0060, at East 14th Street and Orange Avenue. This site has two operating instruments: a high volume sampler which collects samples once every six days, and a continuous instrument which operates every day. This site is 1 kilometer from the 2785 Broadway site.

One exceedance of 150 μg/m³ was recorded at the 14th and Orange site in 1997 to 1999, recorded by the high volume sampler in the first quarter of 1999. Appendix K and related guidance authorizes an exemption from the missing data adjustment if daily sampling is initiated at the site or daily sampling occurs at another site in the area that is a worst concentration site. The 2785 Broadway site makes daily readings and is a nearby worst concentration site, having concentrations similar to those at the 14th and Orange site but being somewhat more prone to observe exceedances. Indeed, on the day that the 14th and Orange site observed an exceedance, the 2785 Broadway site observed an exceedance as well. Therefore, a missing data adjustment need not be done for the 1999 exceedance at this site. Instead, EPA evaluates the 14th and Orange site as having 1.0 expected exceedance in 1999, zero expected exceedances for 1997 and 1998, and thus a three year average of 0.3 expected exceedances.

Further justification for exempting the 14th and Orange site from evaluation of expected exceedances for days lacking high volume sampler data is the availability of daily concentration measurements by another instrument at the same site. Data from this other instrument support EPA's belief that the likelihood of measured exceedances at this location is low and that the percentage of high volume samples found to exceed the standard (one day among 14 samples for the first quarter of 1999) overstates the actual likelihood of exceedances at this location.

The two instruments at this site use different methods, but both methods give valid indication of whether an exceedance of the standard has occurred. Conceptually, one could evaluate the data from the two instruments on a day-by-day basis to assess the number of days that are above or below the standard at this location and the number of days for which the air quality there is unknown. Of the 90 days in the first quarter of 1999, 74 days had only continuous sampler data, 13 days had both high volume sampler data and continuous sampler data, 1 day had only high volume sampler data, and 2 days had no data. For the 74 days with only continuous sampler data, all days were below the level of the standard; in fact, all days had concentrations below 80 μg/m³. Similarly, for the 13 days with both continuous sampler and high volume sampler data, both instruments showed concentrations that in all cases were below 60 μg/m³. The one day with only high volume sampler data showed a concentration above the standard (at 233 μg/m³). That is, the 88 days with data from either or both instruments included one day that exceeded the standard and 87 days in which one or both instruments indicated were below the standard. This suggests that the location had one day with a known exceedance and 2 days without data which could be estimated to have a 1 in 88 likelihood of exceeding the standard. When considered in combination with the two years with no measured exceedances, this further supports the view that the standard was attained at this location.

For the Steubenville area, the assessment must address air quality in the West Virginia as well as the Ohio portion of the area. Although this rulemaking only addresses the Ohio portion of the area, the first requirement is that the entire area meet the air quality standard. Therefore, the analysis of Steubenville area air quality addressed the one monitor in Follansbee, West Virginia, as well as the five monitoring locations in Jefferson County, Ohio. Monitors at all six locations have recorded no 24-hour average values above 150 μg/m³ and no annual average values above 50 μg/m³ since 1990. Although the record has a significant data gap in the third and fourth quarters of 1997, complete data for 1994 to 1996 as well as for 1998 and 1999 show attainment. The data that are available for 1997 also show no exceedances, so these data are consistent with the conclusion based on the other years' data that this area has been attaining the standard.

Beginning in 1998, Ohio has taken less frequent samples at some sites. EPA concurred with this change, concluding on the basis of prior data that the reduced sampling frequency would provide sufficient data to evaluate the area's attainment status. EPA believes the data are adequate to conclude that all portions of the Steubenville area are attaining both the 24-hour and the annual average standards.

In summary, Cuyahoga County has recorded no recent exceedances of the annual standard, no exceedances of the 24-hour standard at six of eight sites, and below the acceptable 1.0 expected exceedances of the 24-hour standard at the other two sites. The Steubenville area has recorded no recent exceedances of either PM_{10} air quality standard. Therefore, both areas are attaining both of the applicable PM_{10} air quality standards.

3. Has EPA Fully Approved the Plans?

EPA approved most of Ohio's particulate matter regulations on May 27, 1994, at 59 FR 27464. This rulemaking approved numerous statewide regulations as well as rules for Cuyahoga and Jefferson Counties. Nevertheless, EPA concluded that Ohio had not satisfied selected requirements. Ohio provided a supplemental submittal to EPA on November 3, 1995. On June 12, 1996, at 61 FR 29662, EPA concluded that Ohio had satisfied all requirements for both Cuyahoga and Jefferson Counties. Although EPA is not rulemaking on redesignation of the West Virginia portion of the Steubenville area, EPA approved the companion plan for West Virginia's portion of the area on November 15, 1996, at 61 FR 58481. Ohio's and West Virginia's plans were developed jointly and include the same attainment strategy. Thus, with respect to redesignation of the Ohio portion of the Steubenville area, EPA has approved Ohio's portion of a collectively accepted and approved plan for assuring attainment in this area.

4. Is Attainment Due to Permanent Emission Reductions?

Ohio's plan requires permanent emission reductions at a wide range of facilities. The emission reductions include installation of air pollution control equipment to capture and control particulate matter that was previously emitted. The reductions also include required efforts to reduce emissions from plant roadways and storage piles. These reductions have led to these counties now attaining the standards.

5. Does the Maintenance Plan Assure Continued Attainment?

Ohio's maintenance plans for Cuyahoga County and the Steubenville area consist mainly of the emission limits in the attainment plan noted above that EPA approved in 1996. That plan included an inventory of maximum allowable emissions from the most significant sources of particulate matter emissions in these areas, and demonstrated that the areas would

achieve and maintain attainment even if the sources operated at maximum capacity. The only remaining issue is whether background impacts from sources that lack such limits, such as diesel vehicles and home heating, will increase sufficiently to cause violations of the air quality standard.

Ohio provided census information indicating a declining population in Cuyahoga and Jefferson Counties. This indicates that the minor source types not regulated in Ohio's rules will likely have declining emissions. Ohio also notes the expected decline in diesel emissions as cleaner new vehicles required by EPA regulations come to replace dirtier older vehicles. These declines can be expected to continue throughout the 10 years that must be included in maintenance plans. Ohio also noted that coke oven emissions have declined and will remain below SIP levels due to EPA regulations requiring maximum achievable control technology. Therefore, EPA concludes that Ohio's maintenance plan provides adequate assurance that the particulate matter standards will continue to be attained in Cuyahoga County and the Steubenville area.

Maintenance plans must include contingency measures in case the areas have problems staying below the air quality standards. Ohio has contingency measures in conjunction with its attainment plan that EPA approved on May 6, 1996, at 61 FR 20142. These measures have air quality triggers that are independent of attainment status, so they are also valid contingency measures for maintenance purposes.

Maintenance plans further must include commitments to continued air quality monitoring and to submittal of a reassessment of maintenance in 8 years. Ohio's monitoring plan is part of its SIP and must continue to be implemented to continue to satisfy section 110 of the Clean Air Act. Ohio's maintenance plan is in most respects a permanent maintenance plan, but EPA expects Ohio to reassess its maintenance plan in 8 years if the relevant standard is still in effect at that time.

6. Has the State Met Section 110 and Part D?

The rulemaking on Ohio's particulate matter plan cited above, published on June 12, 1996, at 61 FR 29662, concludes that Ohio has met the requirements of Section 110 and Part D with respect to particulate matter planning in Cuyahoga and Jefferson Counties.

II. Proposed Rulemaking Action

Cuyahoga and Jefferson Counties in Ohio are currently designated nonattainment for the PM_{10} standards given at 40 CFR 50.6. EPA proposes to approve Ohio's maintenance plan for these areas.

Clean Air Act section 107(d)(3)(E) identifies five prerequisites for redesignation of areas from nonattainment to attainment. EPA proposes to conclude that these criteria are met with respect to PM_{10} in Cuyahoga and Jefferson Counties. Therefore, EPA proposes to redesignate these two counties to attainment for PM_{10}.

For the Steubenville area, EPA is today proposing action only on the Ohio portion of this area. This approach is for administrative convenience and in no way signifies any splitting of the area into separate air quality planning areas. EPA's action today reflects a review of the air quality for the full Steubenville area as well as Ohio's fulfillment of its portion of an attainment plan that Ohio and West Virginia jointly developed. This administrative approach is the same as the administrative approach used in rulemaking on the attainment plan, in which separate Ohio versus West Virginia rulemaking was based on fulfillment by each State of its share of a jointly developed area-wide plan. EPA has not yet received a redesignation request for the West Virginia portion of the Steubenville area. EPA anticipates receiving and rulemaking on such a request in the near future. In the future, if the standard is violated in either portion of the area, such that redesignation back to nonattainment is warranted, EPA will reinstate nonattainment status for the entire area.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism 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 State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

The action being proposed will 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, because it merely proposes to approve a change that the State requested in the attainment status of two areas, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

The action being proposed will not have a significant impact on a substantial number of small entities because redesignations under section 107 of the Clean Air Act do not create any new requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. 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 action proposed 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 proposes to approve a change in the attainment status of two areas, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 28, 2000.

Norman Niedergang,

Regional Administrator, Region 5.

[FR Doc. 00–17192 Filed 7–7–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To Revise Critical Habitat for the Cape Sable Seaside Sparrow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to revise critical habitat for the Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*), under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that the petition presents substantial information indicating that revising critical habitat for this species may be warranted.

DATES: The finding announced in this notice was made on June 21, 2000. Send your comments and materials to reach us on or before September 8, 2000. We may not consider comments received after the above date in making our decision for the 12-month finding.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand-deliver comments to the Field Supervisor, U.S. Fish and Wildlife Service, 1360 U.S. Hwy 1, Suite 5, Vero Beach, Florida 32961. You may also comment via the Internet to heather_mcsharry@fws.gov. See Supplementary Information for comment procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Jay Slack at 561/562–3909, extension 234.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(D)(i) of the Act and our listing regulations (50 CFR 424.14 (c)(1)) require that we make a finding on whether a petition to revise critical habitat of a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. We are to base this finding on all information available to us at the time the finding is made. To the maximum extent practicable, we are to make this finding within 90 days of the date we received the petition, and we are to publish the finding promptly in the **Federal Register**. Our regulations (50 CFR 424.14 (c)(2)(i)) further require that, in making a finding on a petition to revise critical habitat, we consider whether the petition contains information indicating that areas petitioned to be added to critical habitat contain physical and biological features essential to, and that may require special management to provide for, the conservation of the species involved.

On October 22, 1999, we published Listing Priority Guidance for Fiscal Year 2000 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings, giving highest priority to processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is the processing of final determinations on proposed additions