

determination under section 705(b) or section 735(b) of the Act.

(b) *Procedures.* Any hearing shall be conducted after notice published in the Federal Register. The hearing shall not be subject to the provisions of 5 U.S.C. subchapter II, chapter 5, or to 5 U.S.C. 702. Each party shall limit its presentation at the hearing to a summary of the information and arguments contained in its prehearing brief, an analysis of the information and arguments contained in the prehearing briefs described in § 207.23, and information not available at the time its prehearing brief was filed. Unless a portion of the hearing is closed, presentations at the hearing shall not include business proprietary information. Notwithstanding § 201.13(f) of this chapter, in connection with its presentation a party may file witness testimony with the Secretary no later than three (3) business days before the hearing. In the case of testimony to be presented at a closed session held in response to a request under § 207.24(d), confidential and non-confidential versions shall be filed in accordance with § 207.3. Any person not a party may make a brief oral statement of information pertinent to the investigation.

(c) *Hearing Transcripts*—(1) *In general.* A verbatim transcript shall be made of all hearings or conferences held in connection with Commission investigations conducted under this part.

(2) *Revision of transcripts.* Within ten (10) days of the completion of a hearing, but in any event at least one (1) day prior to the date for disclosure of information set pursuant to § 207.30(a), any person who testified at the hearing may submit proposed revisions to the transcript of his or her testimony to the Secretary. No substantive revisions shall be permitted. If in the judgment of the Secretary a proposed revision does not alter the substance of the testimony in question, the Secretary shall incorporate the revision into a revised transcript.

(d) *Closed sessions.* Upon a request filed by a party to the investigation no later than seven (7) days prior to the date of the hearing that identifies the subjects to be discussed, specifies the amount of time requested, and justifies the need for a closed session with respect to each subject to be discussed, the Commission may close a portion of a hearing to persons not authorized under § 207.7 to have access to business proprietary information in order to allow such party to address business proprietary information during the course of its presentation. In addition, during each hearing held in an

investigation conducted under section 705(b) or section 735(b) of the Act, following the public presentation of the petitioner(s) and that of each panel of respondents, the Commission will, if it deems it appropriate, close the hearing to persons not authorized under section 207.7 to have access to business proprietary information in order to allow Commissioners to question parties and/or their representatives concerning matters involving business proprietary information.

23. Redesignated § 207.25 is revised to read as follows:

§ 207.25 Posthearing briefs.

Any party may file a posthearing brief concerning the information adduced at or after the hearing with the Secretary within a time specified in the notice of scheduling or by the presiding official at the hearing. No such posthearing brief shall exceed fifteen (15) pages of textual material, double spaced and single sided, on stationery measuring 8½ × 11 inches. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with this section.

24. Redesignated § 207.29 is revised to read as follows:

§ 207.29 Publication of notice of determination.

Whenever the Commission makes a final determination, the Secretary shall serve copies of the determination and the nonbusiness proprietary version of the final staff report on the petitioner, other parties to the investigation, and the administering authority. The Secretary shall publish notice of such determination in the Federal Register.

25. Redesignated § 207.30 is revised to read as follows:

§ 207.30 Comment on information.

(a) In any final phase of an investigation under section 705 or section 735 of the Act, the Commission shall specify a date on which it will disclose to all parties to the investigation all information it has obtained on which the parties have not previously had an opportunity to comment. Any such information that is business proprietary information will be released to persons authorized to obtain such information pursuant to § 207.7. The date on which disclosure is made will occur after the filing of posthearing briefs pursuant to § 207.25.

(b) The parties shall have an opportunity to file comments on any

information disclosed to them after they have filed their posthearing brief pursuant to § 207.25. Comments shall only concern such information, and shall not exceed 15 pages of textual material, double spaced and single-sided, on stationery measuring 8½ × 11 inches. A comment may address the accuracy, reliability, or probative value of such information by reference to information elsewhere in the record, in which case the comment shall identify where in the record such information is found. Comments containing new factual information shall be disregarded. The date on which such comments must be filed will be specified by the Commission when it specifies the time that information will be disclosed pursuant to paragraph (a) of this section. The record shall close on the date such comments are due, except with respect to investigations subject to the provisions of section 771(7)(G)(iii) of the Act, and with respect to changes in bracketing of business proprietary information in the comments permitted by § 207.3(c).

26. The interim rule amending § 207.40 published in the Federal Register issue of January 3, 1995 at 60 FR 18 is adopted as a final rule without change.

Issued: July 15, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96-18334 Filed 7-19-96; 8:45 am]

BILLING CODE 7020-02-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[LA-34-1-7300a, FRL-5531-4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document announces the Administrator's decision to remove Pointe Coupee Parish (Pointe Coupee), Louisiana, from the Baton Rouge serious ozone nonattainment area, to reclassify Pointe Coupee from serious to marginal, and to redesignate Pointe Coupee to attainment for ozone. Pointe Coupee

was classified as a serious ozone nonattainment area by the EPA on November 6, 1991 (56 FR 56694). However, the EPA has determined that the strategy used in including Pointe Coupee as part of the Baton Rouge serious ozone nonattainment area was incorrect. Pursuant to section 110(k)(6) of the Clean Air Act as amended in 1990 (the Act), which allows the EPA to correct its actions, the EPA is today granting the State's request to correct the classification of Pointe Coupee.

In addition to approving this correction of Pointe Coupee's classification, the EPA is today approving a request from the State of Louisiana to redesignate Pointe Coupee to attainment for ozone. On December 20, 1995, the State of Louisiana submitted a maintenance plan and request to redesignate the Pointe Coupee Parish ozone nonattainment area to attainment. Under the Act, nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other redesignation requirements. In this action, the EPA is approving Louisiana's redesignation request and maintenance plan because it meets the maintenance plan and redesignation requirements set forth in the Act, and the EPA is approving the 1993 base year emissions inventory. The approved maintenance plan will become a federally enforceable part of the State Implementation Plan (SIP) for Louisiana.

DATES: This action is effective on September 20, 1996, unless notice is postmarked by August 21, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register (*FR*).

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202-2733
Air and Radiation Docket and
Information Center, Environmental
Protection Agency, 401 M Street,
S.W., Washington, D.C. 20460
Louisiana Department of Environmental
Quality, Office of Air Quality, 7290
Bluebonnet Boulevard, Baton Rouge,
Louisiana 70810

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

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

SUPPLEMENTARY INFORMATION:

Background

Prior to the 1990 amendments to the Act, the EPA identified and designated nonattainment areas with respect to the National Ambient Air Quality Standards (NAAQS). For such areas, States submitted SIPs to control emissions and achieve attainment of the NAAQS. Pointe Coupee was originally designated as nonattainment for ozone on March 3, 1978. The SIP for Pointe Coupee was first adopted in the early 1980's.

Pointe Coupee Parish was a rural ozone nonattainment planning area prior to 1990. The parish is contiguous to the Baton Rouge Consolidated Metropolitan Statistical Area (CMSA). The ozone design value for Pointe Coupee for the years 1988 through 1990 was 0.127 parts per million, which would have classified the parish as a marginal ozone nonattainment area under the Act.

Following the 1990 amendments to the Act, the Louisiana Department of Environmental Quality (LDEQ), in conjunction with other State planning agencies, developed the boundaries for the Baton Rouge ozone nonattainment area. Pointe Coupee was contiguous to the Baton Rouge CMSA, and had two large nitrogen oxides (NO_x) sources, Big Cajun I and II power plants. It was concluded that the presence of these two large NO_x sources would contribute significantly to the ozone levels in the Baton Rouge CMSA. Pointe Coupee was subsequently classified as serious by operation of law and included as part of the Baton Rouge serious ozone nonattainment area pursuant to sections 107(d) and 181(a) of the Act. Further citations will refer to the Act unless otherwise specified. See 56 *FR* 56694 (November 6, 1991).

The Clean Air Act, as amended in 1977, required areas that were designated nonattainment based on a failure to meet the ozone NAAQS to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. Pointe Coupee was designated under section 107 of the 1977 Clean Air Act as nonattainment with respect to the ozone NAAQS on March 3, 1978 (40 CFR 81.319). The

most recent revision to the ozone SIP occurred on May 5, 1994, when the EPA approved a SIP revision for the State of Louisiana to correct certain enforceability deficiencies in its volatile organic compounds (VOC) rules (59 *FR* 23164). For purposes of redesignations, the State of Louisiana has an approved ozone SIP for Pointe Coupee.

The LDEQ has collected ambient monitoring data since 1991 that show no violations of the ozone NAAQS of 0.12 parts per million. The LDEQ has developed a maintenance plan for Point Coupee, and solicited public comment. Subsequently, the LDEQ submitted a request, through the Governor's office, to redesignate this parish to attainment with respect to the ozone NAAQS. This maintenance plan and redesignation request for Pointe Coupee was submitted to the EPA on December 20, 1995.

Correction of Error Under Section 110(k)(6)

Section 110(k)(6) provides whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public. The EPA interprets this provision to authorize the Agency to make corrections to a promulgation when it is shown to the EPA's satisfaction that an error occurred in failing to consider or inappropriately considering information available to the EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate.

Ground level ozone formation involves a photochemical reaction between certain precursor chemicals when specific meteorological conditions are present. Reactions between VOCs, NO_x, and to a much lesser degree, carbon monoxide (CO), form ground level ozone. The EPA's initial action in classifying Pointe Coupee was based on the belief that NO_x emissions from Pointe Coupee would significantly impact ozone levels in the Baton Rouge CMSA, and including the parish in the Baton Rouge nonattainment area would assist in controlling future ozone levels. That information was subsequently demonstrated to have been

inappropriately considered. The EPA has since determined, through a recent Urban Airshed Modeling (UAM) demonstration, that NO_x reductions are not beneficial to attainment in the Baton Rouge CMSA, and therefore contradicts the LDEQ's and the EPA's original reason for the inclusion of Pointe Coupee in the Baton Rouge planning area.

In addition, Pointe Coupee's design value in the 1988–1990 timeframe was 0.127 ppm, which would have lead the EPA to classify the area "marginal". Pointe Coupee is not part of the Baton Rouge CMSA, and it is a rural parish. For these reasons, the EPA has determined that the basis for including Pointe Coupee as part of the Baton Rouge serious ozone nonattainment area was incorrect. Therefore, the EPA believes it is appropriate to correct the EPA's initial decision by removing Pointe Coupee Parish from the Baton Rouge serious ozone nonattainment area and subsequently change the classification of Pointe Coupee Parish from serious to marginal. Please see the technical support document (TSD) in the official docket for the detailed UAM analysis.

Redesignation to Attainment

Evaluation Criteria

The 1990 Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment: (1) The area must have attained the applicable NAAQS; (2) the area must meet all applicable requirements under section 110 and part D; (3) the area must have a fully approved SIP under section 110(k); (4) the air quality improvement must be permanent and enforceable; and, (5) the area must have a fully approved maintenance plan pursuant to section 175A. Section 107(d)(3)(D) allows a Governor to initiate the redesignation process for an area to apply for attainment status. Please see the TSD for a detailed discussion of these requirements.

(1) Attainment of the NAAQS for Ozone

Attainment of the ozone NAAQS is determined based on the expected number of exceedances in a calendar year. The method for determining attainment of the ozone NAAQS is contained in 40 CFR 50.9 and appendix H to that section. The simplest method by which expected exceedances are calculated is by averaging actual exceedances at each monitoring site over a consecutive three year period. An area is in attainment of the standard if

this average results in expected exceedances for each monitoring site of 1.0, or less, per calendar year. When a valid daily maximum hourly average value is not available for each required monitoring day during the year, the missing days must be accounted for when estimating exceedances for the year. Appendix H provides the formula used to estimate the expected number of exceedances for each year.

The State of Louisiana's request is based on an analysis of quality-assured ozone air quality data which is relevant to both the maintenance plan and to the redesignation request. The data come from the State and Local Air Monitoring Station network. This request is based on ambient air ozone monitoring data collected for more than three consecutive years in the area. The New Roads monitoring site in Pointe Coupee has collected ozone periodically since 1976, and continuously since 1988. The data collected since 1991 clearly show an expected exceedance rate of less than 1. The redesignation request and maintenance plan are based on ambient air quality data collected between 1991 and 1995. Please see the TSD for the detailed air quality monitoring data.

In addition to the demonstration discussed above, the EPA required completion of air network monitoring requirements set forth in 40 CFR part 58. This included a quality assurance plan revision and a monitoring network review to determine the adequacy of the ozone monitoring network. The LDEQ fulfilled these requirements to complete documentation for the air quality demonstration. The LDEQ has also committed to continue monitoring in Pointe Coupee in accordance with 40 CFR part 58.

In summary, the EPA believes that the data submitted by the LDEQ provides an adequate demonstration that Pointe Coupee attained the ozone NAAQS. Moreover, the monitoring data continue to show attainment to date.

(2) Section 110 Requirements and Part D Requirements

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the Act, the EPA has reviewed the SIP to ensure that it contains all measures that were due under the Act prior to or at the time the State submitted its redesignation request, as set forth in policy. The EPA interprets section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the same time as the submission of a complete redesignation request. In this case, the date of

submission of a complete redesignation request is December 20, 1995.

Requirements of the Act that come due subsequently continue to be applicable to the area at later dates (see section 175A(c)) and, if redesignation of any of the areas is disapproved, the State remains obligated to fulfill those requirements. These requirements are discussed in the following the EPA documents: "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992; "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (the Act) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992; and "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

The EPA has analyzed the Louisiana SIP and determined that it is consistent with the requirements of amended section 110(a)(2). The SIP contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications to existing ones; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and requires stationary source emissions monitoring and reporting. For purposes of redesignation, the Pointe Coupee SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, the EPA believes all marginal ozone nonattainment area requirements have been met for Pointe Coupee.

Part D Requirements. Before Pointe Coupee can be redesignated to attainment, it must have fulfilled 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 nonattainment areas classified under Table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR

13501 (April 16, 1992)). With this action, Pointe Coupee is now subject to the *marginal* requirements of section 182(a) rather than section 182(c). Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D.

Subpart 1 of Part D—Section 172(c) Requirements. Under section 172(b), the Administrator established that States containing nonattainment areas shall submit a plan or plan revision meeting the applicable requirements of section 172(c) no later than three years after an area is designated as nonattainment, unless the EPA establishes an earlier date.

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than three years after an area has been designated as nonattainment under the Act. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. Those sections which have been superseded can be found in the subpart 2 discussion. In the case of Pointe Coupee, the State has satisfied all of the section 172(c) requirements.

As discussed under the section 110(k)(6) requirements above, Pointe Coupee has been part of a larger serious ozone nonattainment area. Serious ozone nonattainment areas have an attainment date of November 15, 1999. However, since this action classifies Pointe Coupee as marginal, the area now has an attainment date of November 15, 1993. Based on the monitoring data collected between 1991 and 1995, the EPA agrees with the State that Pointe Coupee attained the ozone standard by this earlier date.

The section 172(c)(1) non-Reasonably Available Control Technology (RACT) control requirements have been met through satisfaction of the section 182(a)(2)(A) requirements. The EPA has determined that the section 172(c)(2) reasonable further progress requirement does not apply for this redesignation request, since air quality data shows that Pointe Coupee has already attained the ozone standard. The section 172(c)(3) emissions inventory requirements will be satisfied by the approval of the 1993 attainment year inventory requirements of the maintenance plan under section 175A. The section 172(c)(4) requirement to identify and quantify emission increases

is intended to be an alternative to the offsets requirement of section 173(a), and is not a prerequisite to redesignation. Moreover, once the area is redesignated to attainment, these provisions will not apply since the Prevention of Significant Deterioration requirements of part C will become effective.

As for the section 172(c)(5) New Source Review (NSR) requirement, the EPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. See, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment. The rationale for this view is described fully in that memorandum, and is based on the EPA's authority to establish *de minimis* exceptions to statutory requirements. See, *Alabama Power Co. v. Costle*, 636 F. 2d 323, 360–61 (D.C. Cir. 1979).

Section 172(c)(6) requires that other control measures be included as necessary to provide for attainment and maintenance of the ozone standard. Since attainment has been reached in Pointe Coupee, no additional measures are needed for attainment. Any additional measures required to ensure maintenance of the ozone standard are included in the contingency plan submitted with the redesignation request. Section 172(c)(7) requires that the nonattainment plan meet the applicable provision of section 110(a)(2). As discussed above under the section 110(a)(2) requirements, the SIP contains such measures and has met the requirements of section 110(a)(2). Section 172(c)(8) allows the State to use equivalent techniques for modeling, inventorying, or other planning activities unless the EPA determines that the techniques are less effective. This allowance will continue to apply to the requirements of the maintenance plan. The section 172(c)(9) requirements for contingency measures are directed at ensuring reasonable further progress and attainment by the attainment date. These requirements do not apply to Pointe Coupee, since the area has attained the ozone standard. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of this section.

Section 176(c) requires States to revise their SIPs to establish criteria and

procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating this redesignation request under section 107(d). The rationale for this is based on a combination of two factors.

First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment. Second, the EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. For a complete description of the EPA's national policy for the applicability of conformity requirements to redesignation requests, please see the December 7, 1995 Federal Register at 60 FR 62748.

Finally, for purposes of redesignation, the Pointe Coupee SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, the EPA believes the SIP satisfies all of those requirements.

Subpart 2 of Part D—Section 182(a) Requirements. The Act was amended on November 15, 1990, Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The EPA was required to classify ozone nonattainment areas according to the severity of their problem. As discussed previously, Pointe Coupee was designated as a serious ozone nonattainment. See 40 CFR 81.319. Because of this classification, Pointe Coupee originally had to meet the more stringent section 182(c) requirements. The EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 182. Below is a summary of how the area has met the requirements of section 182(a) for marginal areas.

Emissions Inventory. Section 182(a)(1) required an inventory of actual emissions from all sources, as described in section 172(c)(3) by November 15, 1992. On November 16, 1992, the LDEQ submitted an emission inventory for Pointe Coupee as part of the Baton Rouge 1990 base year submission. The EPA approved this 1990 base year inventory on March 15, 1995.

Reasonably Available Control Technology. To be redesignated, all SIP revisions required by section 182(a)(2)(A) concerning RACT requirements must have been submitted to the EPA and fully approved (59 FR

23166). Louisiana has met all RACT corrections requirements.

Vehicle Inspection and Maintenance (I/M). Section 182(a)(2)(B) requires that States correct deficiencies in any existing I/M program. There is not, however, any requirement under this section to implement a new I/M program. Pointe Coupee did not have an I/M program in place prior to 1990, so no outstanding I/M issues exist. It should be noted that an I/M program has been adopted by the State in this parish, but the EPA has not taken action to approve it.

Emissions Inventory Update and Statements. Section 182(a)(3)(A) required a periodic update of the area's emission inventory under paragraph (1) within three years of its submittal. The State included a 1993 inventory with the December 20, 1995 submittal of its maintenance plan and redesignation request for Pointe Coupee. Section 182(a)(3)(B) required a SIP submission by November 15, 1992, to require stationary sources of NO_x and VOCs to provide statements of actual emissions. Louisiana submitted an annual emissions statement SIP revision on March 3, 1993. This revision was approved in the Federal Register on January 6, 1995 at 60 FR 2014.

General Offset Requirement. Section 182(a)(4) required the State to develop VOC emission offset requirements in the ratio of 1.1 to 1. As discussed previously under the section 172(c)(5) NSR requirements, the EPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation. Section 172(c)(5)(c) of the NSR requirements specifies the requirements for offsets.

(3) Fully Approved SIP Under Section 110(k)

Based on the approval of provisions under the pre-amended Act and the EPA's prior approval of SIP revisions under the 1990 Amendments, the EPA has determined that Pointe Coupee has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and part D as discussed above.

(4) Improvement in Air Quality Due to Permanent and Enforceable Measures

The EPA approved the Louisiana SIP control strategy for Pointe Coupee, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. The control measures to which the emission reductions are attributed are VOC RACT regulations, the Federal Motor Vehicle Control Program (FMVCP), and lower Reid Vapor Pressure (RVP) for gasoline.

The FMVCP and RVP reduced VOC emissions from motor vehicles by 47 percent from 1990 to 1996. In addition, the State permits program, the Prevention of Significant Deterioration permits program, and the Federal Operating Permits program will help counteract future emissions growth.

In association with its emission inventory discussed below, the State of Louisiana has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the VOC emissions in the base year are not artificially low due to local economic downturn. The EPA finds that the combination of existing the EPA-approved state and federal measures contribute to the permanence and enforceability of reduction in ambient ozone levels that have allowed the area to attain the NAAQS.

(5) Fully Approved Maintenance Plan Under Section 175A

Section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems. In this document, the EPA is approving the State of Louisiana's maintenance plan for Pointe Coupee because the EPA finds that Louisiana's submittal meets the requirements of section 175A.

A. Emissions Inventory-Attainment Year Inventory

On December 20, 1995, the State of Louisiana submitted comprehensive inventories of VOCs, NO_x, and CO emissions from Pointe Coupee. The inventories include area, stationary, and mobile sources using 1993 as the base year for calculations to demonstrate maintenance. The 1993 inventory is considered representative of attainment conditions because the NAAQS was not violated during 1993 and was one of the three years (1991-1993) upon which the attainment demonstration was based. The EPA is approving the 1993 base year inventory in this document.

The State submittal contains the detailed inventory data and summaries by county and source category. The UAM Emission Processing System 2.0 Utility Program Bureau of Economic Analysis Factors was used to generate the growth projections for the emissions inventory. These factors were applied to the 1993 inventory to reflect the expected emission levels through 2006.

The emission projections show an increase above the base year levels for NO_x. Because of this increase, the LDEQ was required to provide justification that Pointe Coupee could maintain its air quality in light of this projected NO_x increase. The LDEQ submitted a UAM demonstration with the redesignation request. The UAM demonstration was used to demonstrate the impact of NO_x emission increases on ozone formation. The UAM analysis showed that the projected future mix of emissions will not cause a violation of the NAAQS. The EPA UAM guidance documents were used in developing model inputs.

The model was run using 1992 and 1993 meteorological conditions and monitored ozone concentration data. This UAM demonstration illustrates that the projected NO_x levels during the maintenance period (1993-2006) will not adversely affect ozone levels in Pointe Coupee. Please see the TSD for details regarding the emission inventory and projections, as well as a copy of the UAM modeling results.

The following table is a summary of the revised average peak ozone season weekday VOC and NO_x emissions for the major anthropogenic source categories for the 1993 attainment year inventory.

SUMMARY OF VOC EMISSION PROJECTIONS FOR POINTE COUPEE PARISH IN TONS PER DAY

	1993	1999	2006
Point Source VOC ...	2.50	2.52	2.50
Area Source VOC ...	0.94	0.98	0.88
Nonroad Source VOC	1.55	1.70	1.51
Onroad Source VOC	1.63	1.21	1.18
Total VOC	6.62	6.41	6.07

SUMMARY OF NO_x Emission Projections for Pointe Coupee Parish in Tons Per Day

	1993	1999	2006
Point Source NO _x ...	60.91	64.76	67.19
Area Source NO _x	0.03	0.03	0.03
Nonroad Source NO _x	3.40	4.01	3.33
Onroad Source NO _x	2.56	2.19	2.12

SUMMARY OF NO_x Emission Projections for Pointe Coupee Parish in Tons Per Day—Continued

	1993	1999	2006
Total NO _x	66.40	70.99	72.67

B. Continued Attainment

Continued attainment of the ozone NAAQS in Pointe Coupee will depend, in part, on the Federal and State control measures discussed previously. However, the ambient air monitoring site will remain active at its present location during the maintenance period. These data will be quality assured and submitted to the Aerometric Information and Retrieval System on a monthly basis. A monitored violation of the ozone NAAQS will provide the basis for triggering measures contained in the contingency plans. Additionally, as discussed above, during year eight of the maintenance period, the LDEQ is required to submit a revised plan to provide for maintenance of the ozone standard in Pointe Coupee for the next ten years.

C. Contingency Plan

Section 175A requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area to attainment. The contingency plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify specific triggers which will be used to determine when the measures need to be implemented.

The LDEQ has selected new Control Techniques Guidelines or Alternative Control Technology rule implementation and NO_x RACT as contingency measures in Pointe Coupee. If at any time during the maintenance period Pointe Coupee records a violation of the ozone NAAQS, the LDEQ will evaluate the potential source(s) of that violation and promulgate either VOC or NO_x RACT rules as appropriate for the affected source categories. The LDEQ will adopt rules within 9 months of the violation, and affected sources must be in compliance with these rules within 2 years of the violation. These contingency measures and schedules for implementation satisfy the requirements of section 175A(d).

D. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b), the State has agreed to submit a revised maintenance SIP eight years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

Final Action

In today's action, the EPA is correcting the error made by removing Pointe Coupee from the Baton Rouge serious ozone nonattainment area, establishing Pointe Coupee Parish as a separate planning area in accordance with section 110(k)(6). In addition, the EPA is correcting the classification of the area from serious to marginal for ozone. In accordance with sections 107(d)(2)(B), and 110(k)(6), the correction action portion of this document is a final publication of the classification of Pointe Coupee Parish to a marginal ozone nonattainment area, and is not subject to the notice and comment provisions of sections 553 through 557 of title 5 of the Administrative Procedures Act.

The EPA has evaluated the State's redesignation request for Pointe Coupee for consistency with the Act, the EPA regulations, and policy. The EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the ozone standard. In addition, the EPA has determined that the redesignation request meets the requirements and policy set forth in the General Preamble and policy memorandum discussed in this document for area redesignations, and today is approving Louisiana's redesignation request for Pointe Coupee Parish.

The EPA is publishing this action without prior proposal because the EPA 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 should adverse or critical comments be filed. This action will be effective September 20, 1996, unless adverse or critical comments concerning the redesignation portion of this document are postmarked by August 21, 1996. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received concerning the redesignation portion of this document will then 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 this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received on this action, the public is advised that this action will be effective September 20, 1996.

The EPA has reviewed this redesignation request for conformance with the provisions of the Act and has determined that this action conforms to those requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, under 5 U.S.C. 605(b), the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. See 46 FR 8709. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the EPA from basing its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2). The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 20, 1996. Filing a petition for reconsideration of this final rule by the Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future

request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, the EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A. The rules and commitments approved in this action may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, the EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, the EPA has determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

SIP Actions Exempt From OMB Review

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

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended 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 section 804(2) of the APA as amended.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: June 27, 1996.
Carol M. Browner,

Administrator.

40 CFR Parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(70) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(70) The Louisiana Department of Environmental Quality submitted a redesignation request and maintenance plan for Pointe Coupee Parish on December 20, 1995. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Louisiana ozone State Implementation Plan for Pointe Coupee Parish. The EPA therefore approved the

request for redesignation to attainment with respect to ozone for Pointe Coupee Parish on September 20, 1996.

(i) *Incorporation by reference.*

(A) Letter dated August 31, 1995, from Mr. Gustave Von Bodungen, P.E., Assistant Secretary, Louisiana Department of Environmental Quality, transmitting a copy of the Pointe Coupee Parish maintenance plan for the EPA's approval.

(ii) *Additional material.*

(A) Letter dated August 28, 1995, from Governor Edwin E. Edwards of Louisiana to Ms. Jane Saginaw, Regional Administrator, requesting the reclassification and redesignation of Pointe Coupee Parish to attainment for ozone.

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

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

§ 52.975 Redesignations and maintenance plans: Ozone.

* * * * *

(d) *Approval.* The Louisiana Department of Environmental Quality submitted a redesignation request and maintenance plan for Pointe Coupee Parish on December 20, 1995. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Louisiana ozone State Implementation Plan for Pointe Coupee Parish. The EPA therefore approved the request for redesignation to attainment with respect to ozone for Pointe Coupee Parish on September 20, 1996.

PART 81—[AMENDED]

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

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

2. In § 81.319, the ozone table is amended by revising the entries for the Baton Rouge Area and adding an entry for Pointe Coupee Area in alphabetical order to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date	Type
Baton Rouge Area:				
Ascension Parish		Nonattainment		Serious.
East Baton Rouge Parish		Nonattainment		Serious.
Iberville Parish		Nonattainment		Serious.
Livingston Parish		Nonattainment		Serious.
West Baton Rouge Parish		Nonattainment		Serious.
* * * * *				
Pointe Coupee Area:				
Pointe Coupee Parish	September 20, 1996	Attainment		

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

* * * * *
 [FR Doc. 96-18194 Filed 7-19-96; 8:45 am]
 BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-63; RM-8777]

Radio Broadcasting Services; Green River, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Wagonwheel Communications Corporation, allots Channel 268C at Green River, Wyoming, as the community's first local aural transmission service. See 61 FR 15442, March 8, 1996. Channel 268C can be allotted to Green River in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 268C at Green River are North Latitude 41-31-36 and West Longitude 109-28-06. With this action, this proceeding is terminated.

DATES: Effective August 26, 1996. The window period for filing applications will open on August 26, 1996, and close on September 26, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 96-63, adopted July 3, 1996, and released July 12, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of

this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Green River, Channel 268C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96-18444 Filed 7-19-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 94-125; RM-8534, RM-8575]

Radio Broadcasting Services; Fredericksburg, Helotes and Castroville, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document rescinds the *Report and Order* in this proceeding. See 60 FR 32298, published June 21, 1995.

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 776-1654.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order* in MM Docket No. 94-125, adopted June 28, 1996, and released July 5, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Bruce A. Romano,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96-18445 Filed 7-19-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 93-136; RM-8161, RM-8309 & RM-8310]

Radio Broadcasting Services; Clewiston, Fort Myers Villas, Indiantown, Jupiter, Key Colony Beach, Key Largo, Marathon and Naples, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: This action dismisses an Application for Review filed by Palm Beach Radio Broadcasters, Inc., WSUV, Inc. and GGG Broadcasting, Inc. ("Joint Petitioners") in response to a Memorandum Opinion and Order. See 60 FR 32120, June 20, 1995. On May 21, 1996, Joint Petitioners withdrew the