

be fulfilled for the Leeds area to be redesignated to attainment.

3. Permanent and Enforceable Improvement in Air Quality

ADEM provided a copy of the revoked air permit dated March 4, 1992, from the Jefferson County Department of Health, Air Pollution Program, proving that ILCO, the major source of lead emissions had ceased operation and was dismantled. Based on 1992 data, ILCO was responsible for almost 80 percent of the lead emissions for the Leeds nonattainment area. The total lead emissions identified in the 1992 inventory from the Leeds area that remained after the ILCO shutdown are 2.63 tons per year emitted from ACME Packaging. Since the ILCO facility has ceased operation and has been dismantled, the improvement in air quality resulting in attainment of the standard is permanent and enforceable. Monitoring will continue in the Leeds area ensuring that the lead NAAQS continues to be maintained.

4. Maintenance Plan

Section 175(A) of the CAA requires states that submit a redesignation request for a nonattainment area under section 107(d) to include a maintenance plan to ensure that the attainment of NAAQS for any pollutant is maintained. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the approval of a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating 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 such contingency measures as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard that occurs after redesignation. The contingency provisions are to include a requirement that the State will implement all measures for controlling the air pollutant concerned that were contained in the SIP prior to redesignation.

The State of Alabama through ADEM has submitted a maintenance plan to ensure that the lead NAAQS is protected. The maintenance plan for the Leeds area of Jefferson County, Alabama is comprised of a base year emissions inventory, a maintenance demonstration and the part C PSD program. The EPA believes that this submittal is adequate for the Leeds area.

The State has demonstrated that the lead standard will be maintained. The

ILCO facility, the only major lead source that existed in Leeds, has been permanently closed and dismantled. The only remaining lead emissions source is ACME Packaging, which has emissions well below the 5 ton per year threshold for being classified as a lead point source (40 CFR 51.100(k)). Since ACME Packaging is not considered a point source under EPA's regulations it is not even required to meet RACM requirements. As previously discussed, the Leeds area has been in continuous attainment of the lead standard since the closure of the ILCO facility, and EPA believes, based on the low monitored levels of lead emissions, which are well below the NAAQS, that the Leeds area will continue to remain in attainment notwithstanding the existence of continued emissions from ACME Packaging's facility. The applicability of the State's fully approved part C PSD program, which establishes permitting requirements for any new sources with the potential to emit 0.6 tons per year of lead, provides adequate assurance that the NAAQS will continue to be attained during the maintenance period.

The EPA does not believe any additional contingency measures are needed. The lead emissions from the ACME Packaging facility are so low that EPA does not believe it reasonable to expect that they could cause a violation of the NAAQS. Nevertheless, monitoring of the Leeds area will continue and appropriate actions could be taken in the event of a violation of the standard.

With respect to the requirement of section 175A that the contingency provisions of a maintenance plan include all control measures previously contained in the SIP, EPA believes that the requirement is satisfied in this instance even though the State is not carrying forward as contingency measures the source-specific control requirements previously applicable to the ILCO facility. Carrying forward those requirements as contingency measures would serve no useful purpose in light of the permanent closure of that facility and the revocation of its permit. Moreover, any attempt to reopen a facility on the same site would be subject to the permitting requirements of the State's preconstruction review program.

Final Action

In this action, EPA is approving the redesignation of the Leeds area to attainment for lead and the accompanying SIP revision submitted by the State of Alabama, because EPA believes that Alabama has addressed all of the requirements of the CAA and the

culpable lead source has been permanently shut down. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective March 7, 1995. However, if adverse or critical comments are received by February 6, 1995, this action will be withdrawn and two subsequent documents will be published before the effective date. One document will withdraw the final action. The second document will be the final rulemaking notice which will address the comments received.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 1995. Filing a petition for reconsideration by the Administrator of this final rule 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, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2) of the CAA, 42 U.S.C. 7607 (b)(2)].

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for two years. The USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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