Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Deeringothamnus pulchellus	Beautiful pawpaw	U.S.A. (FL)	E	244	NA	NA
Deeringothamnus rugelii	Rugel's pawpaw	U.S.A. (FL)	E	244	NA	NA

Dated: September 12, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-21753 Filed 9-25-86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for Clematis socialis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Clematis socialis* (Alabama leather flower), to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended (Act). *Clematis socialis* is only known from two sites in St. Clair and Cherokee Counties, Alabama. Threats to this species include herbicide application and mechanical disturbances associated with clearing and maintaining highway rights-of-way, and potential land use changes. This determination of *Clematis socialis* to be an endangered species implements the protection provided by the Act.

EFFECTIVE DATE: October 27, 1986.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan (See **ADDRESSES** section) at 601/965-4900 or FTS 490-4900.

SUPPLEMENTARY INFORMATION:

Background

Clematis socialis, a member of the family Ranunculaceae, was first collected in 1980 in St. Clair County, Alabama and was described in 1982 by Dr. Robert Kral. The most distinctive features are its rhizomatous habit and formation of dense clones with erect stems reaching 0.2-0.3 meters (7-12 inches) in height. Leaves are variable from the base to the apex of the stem. The lowermost leaves are scalelike, median leaves are simple, and upper leaves are 3- to 5-foliolate. The flowers, which bloom from April to May, are solitary, urn to bell-shaped, and blue-violet in color. The fruits are aggregates of achenes. *Clematis socialis* superficially resembles the more widespread *Clematis crispa*, but can be distinguished by its erect stems, rhizomatous nature, solitary flowers, and lack of tendrils (Kral 1982, 1983).

Clematis socialis is only known from two sites in northeast Alabama in St. Clair and Cherokee Counties. Attempts to locate additional populations have been unsuccessful. At both sites the plants are rooted in sticky, silty clay amid grass-sedge vegetation along highway rights-of-way. In St. Clair County the plants also occur in contiguous pine-hardwood bottoms. The St. Clair County site has been repeatedly disturbed, and many of the plants have been destroyed through heavy vehicular traffic associated with timbering on the private land and clearing of the right-of-way. The continued existence of this species is also threatened by encroaching residential development and herbicide application.

On September 27, 1985 (50 FR 39525), the Service published a new plant notice of review, which included *Clematis socialis* as a category-1 species. Category-1 species are those for which data in the Service's possession indicate listing is warranted. The Service published a proposed rule to list *Clematis socialis* as an endangered species on December 6, 1985 (50 FR 49970).

Summary of Comments and Recommendations

In the December 6, 1985, proposed rule (50 FR 49970) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Gadsden Times* on December 27, 1985. Four comments were received and no public hearing was requested or held. The Alabama Forestry Commission had no specific comments on the proposal but offered to assist the Service in the recovery effort if *Clematis socialis* was listed. Two conservation organizations and one other interested party provided comments in support of the proposal.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Clematis socialis* should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Clematis socialis* (Alabama leather flower) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species occurs on a roadside right-of-way and in the adjacent woodland in St. Clair County, Alabama; there are less than 50 clones and these are all restricted to 0.4 hectare (1 acre). Recently, diseased pines were removed from the site and, even though the opening of the canopy may have been beneficial, it is not known how many plants, were lost by mechanical disturbances when the timber was removed. The second population consists of only a few clones on a highway right-of-way in Cherokee County, Alabama. Due to its proximity to highways, *Clematis socialis* has suffered repeated disturbances in association with right-of-way maintenance, including herbicide application, mowing, and scraping. The viability of this species has been additionally affected by erosion from adjacent roadside banks in St. Clair County. This erosion has caused many of the plants in the right-of-way to be covered by a thick layer of silt, in addition to changing the texture and drainage properties of the soil.

Clematis socialis is imminently threatened by encroaching residential development in St. Clair County. The

private property on which this species occurs has been divided into individual lots and contiguous areas are rapidly being developed. Other land uses that are evident in the surrounding area are forest management and pasturing for cattle. Proper protection and management plans are needed for this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Due to the limited distribution and small population size of *Clematis socialis*, indiscriminate collecting of any nature could seriously affect this species and perhaps result in its extinction. Kral (1982, 1983) indicates that this species has excellent horticultural potential. Publicity regarding its rarity could generate such a demand.

C. *Disease or predation.* This species is not known to be threatened by disease or predation.

D. *The inadequacy of existing regulatory mechanisms.* There are no State or Federal laws protecting *Clematis socialis* or its habitat. The Endangered Species Act would provide protection for this species through Section 9 and the recovery process.

E. *Other natural or manmade factors affecting its continued existence. Clematis socialis* is extremely vulnerable because of its restricted range and low numbers. Any natural or human-induced disturbance could seriously affect its viability and even cause extinction. Furthermore, due to the limited number of individuals, there is a small pool of genetic variability, which reduces the ability of this species to adapt to stress.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Clematis socialis* as endangered. Endangered status is appropriate due to the species' restricted range and the multiplicity of threats facing it and its habitat. Critical habitat is not being determined for reasons discussed in the following section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Clematis socialis* at this time. Publishing a detailed description and map of this species' habitat might stimulate public interest and make this species more vulnerable to taking by collectors (See factor "B" in the "Summary of Factors Affecting the Species"). Also, collecting of listed plants is not prohibited by the Endangered Species Act, except from land under Federal jurisdiction. No benefit would be derived from designating critical habitat, since the landowners are aware of the locations and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not be prudent or beneficial to determine critical habitat for *Clematis socialis* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act have been revised and published at 51 FR 19926; June 3, 1986. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. The only possible Federal involvement with *Clematis socialis* at this time would be possible Federal funds or other Federal involvement with the highway rights-of-way maintenance. Highway maintenance crews are working cooperatively with the Service at both sites to find rights-of-way maintenance techniques that are compatible with protecting the *Clematis*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Kral, R. 1982. A new *Clematis* from northeastern Alabama. Rhodora 84:285–291.

Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the South. USDA, Forest Service, Technical Publication R8–TP2, pp. 409–412.

Author

The primary author of this final rule is Ms. Cary Norquist (see **ADDRESSES** section) at 601/965–4900 or FTS 490–4900.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. Amend § 17.12(h) by adding the following, in alphabetical order under Ranunculaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Ranunculaceae—Buttercup Family:						
Clematis socialis	Alabama leather flower	U.S.A. (AL)	E	245	NA	NA

Dated: September 12, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR. Doc. 86–21756 Filed 9–25–86; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Dismal Swamp Southeastern Shrew

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines threatened status for the Dismal Swamp southeastern shrew (*Sorex longirostris fisheri*), a small mammal restricted primarily to the Dismal Swamp of southeastern Virginia and adjacent North Carolina. This swamp has undergone extensive environmental changes in the recent past, as a result of human activities. In addition to having direct adverse effects on the shrew, these habitat changes are apparently enabling a neighboring upland subspecies of southeastern shrew to invade the swamp. The Dismal Swamp southeastern shrew may be vulnerable to genetic extinction through continued interbreeding with the more widespread upland subspecies. This rule implements the full protection of the Endangered Species Act of 1973, as amended, for the Dismal Swamp southeastern shrew.

EFFECTIVE DATE: October 27, 1986.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Annapolis Field Office, U.S. Fish and Wildlife Service, 1825B Virginia Street, Annapolis, Maryland 21401.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Jacobs at the above address (301/269–6324 or FTS 922–4197).

SUPPLEMENTARY INFORMATION:

Background

The Dismal Swamp southeastern shrew is a small, long-tailed shrew with a brown back, slightly paler underparts, buffy feet, and a relatively short, broad nose (Handley 1980). It was first described as a species, *Sorex fisheri*, by C. H. Merriam in 1895, based on four specimens trapped that same year in the Dismal Swamp by A. K. Fisher. Jackson (1928) reduced *S. fisheri* to a subspecies of *Sorex longirostris*, which is found over much of the southeastern United States. *S. l. fisheri* generally has a duller pelage than *S. l. longirostris* and is 15 to 25 percent larger. Most *S. l. fisheri* measure about 4 inches (95–102 millimeters) in total length, while most *S. l. longirostris* measure about 3 inches (75–85 millimeters) (Rose 1983)

The Dismal Swamp southeastern shrew is essentially restricted to the Great Dismal Swamp National Wildlife Refuge in southeastern Virginia (cities of Suffolk and Chesapeake, formerly Nansemond and Norfolk Counties) and adjacent portions of the swamp in North Carolina (Camden, Gates, Pasquotank, and Perquimans Counties) (Handley 1980, Hall 1981, Rose 1983). A single specimen of *fisheri* was recently collected in Currituck County, North Carolina (Clark *et al.* 1985), within the historical extent of the swamp. Prior to 1980, the subspecies was known only from 19 specimens collected near the heart of the Dismal Swamp (Handley 1979). Since 1980, at least 40 additional specimens have been collected in and adjacent to the Dismal Swamp, which can be identified as *S. l. fisheri* on the basis of total length (Rose 1983). The subspecies is found in a variety of habitats, from lowland old fields to mature pine and deciduous forests, but is most abundant in mesic successional habitats such as cane stands, regenerating clearcuts, and 10 to 15-year old forested plots (Rose 1983).

The Dismal Swamp southeastern shrew is considered threatened due to its very limited distribution and to recent, human-induced habitat changes in the swamp. In addition to affecting this lowland shrew directly, these changes may be allowing is restricted habitat to be overrun by the more plentiful *Sorex longirostris longirostri* (Handley 1980, Rose 1983).

In order to understand this situation more clearly, it is necessary to consider the dynamics of the evolutionary process within the swamp. The Dismal Swamp has apparently acted like an island for several species of small mammals, including *Sorex longirostris*. The subspecies that evolved in the swamp show a feature typical of small mammals on islands: that is, individuals are larger than those from the nearby "mainland," or in this case, upland subspecies (Carlquist 1974). In the process of subspeciation, individuals in the swamp would be at a competitive disadvantage when living outside the swamp, and the upland race would be equally handicapped in the swamp. It follows that any action which detracts from the distinctive nature of the swamp (e.g., draining) will favor the upland taxon, in this case *S. l. longirostris*, over the swamp subspecies, *S. fisheri*.

In its Review of Vertebrate Wildlife in the **Federal Register** of December 30, 1982 (48 FR 58454–58460), the Service Placed *S. l. fisheri* in category 2, meaning that a proposal to list as endangered or threatened was possibly appropriate, but that substantial biological data were not then available to support such a proposal. Subsequently, the Service received a report from Dr. Robert K. Rose (1983), who had been contracted to investigate the status of the shrew. The data in Dr.

Rose's report, along with other new information assembled by the Service, showed that a proposal to list the shrew as threatened was warranted. In the **Federal Register** of July 16, 1985 (FR 28821), the Service proposed *S. l. fisheri* as a threatened species.

Summary of Comments and Recommendations

In the July 16 proposed rule (50 FR 28821) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations and other interested parties were contacted and requested to comment. A newspaper notice, inviting general public comment, was published in the *Virginia Pilot and Ledger-Star* on July 28, 1985.

Only two comments were received. One was from the Virginia Department of Game and Inland Fisheries, which expressed full support of the proposal to list *S. l. fisheri* as threatened. The other comment, from the City Manager, City of Suffolk, Virginia, neither supported nor opposed the rule; it addressed potential positive impacts to the shrew of a proposed highway by-pass around the city. The effects, positive or negative, of this by-pass on the shrew may now be addressed through the Section 7 consultation process. No new biological data were received during the comment period, and no public hearings were requested.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Dismal Swamp southeastern shrew should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Dismal Swamp southeastern shrew (*Sorex longirostris fisheri*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Handley (1980) noted that the Dismal Swamp southeastern shrew is essentially confined to the Dismal Swamp. Oakes and Whitehead (1979) estimated that around the turn of the century this swamp, more accurately described as a timbered peat bog, occupied some 2,000 to 2,200 square miles (5,200 to 5,700 square kilometers). Even at that time, its size had been reduced and its character altered by clearing, draining for agriculture, and the construction in the early 19th century of the Dismal Swamp Canal. Today, only about 328 square miles (853 square kilometers) of the original swamp remain, there having been a reduction of roughly 85 percent since the turn of the century (U.S. Fish and Wildlife Service 1982).

The character of the remaining swamp has been altered by ditching, beginning in the late 1700's, which has lowered the water table. Furthermore, naturally occurring burns, and human-related activities, such as burning, grazing, and logging, which once maintained portions of the swamp in various stages of succession, were curtailed or eliminated with the establishment of the Great Dismal Swamp National Wildlife Refuge in 1973. As a consequence, the former Dismal Swamp, a heterogeneous mosaic of large tracts of bald cypress, Atlantic white cedar, and cane, has been replaced by a more homogeneous, mesic swamp dominated by a rapidly maturing red maple and black gum forest. This progression toward homogeneous mature hardwood forest is likely detrimental to the Dismal Swamp southeastern shrew. Rose's (1983) trapping data revealed that, of all habitats evaluated in the swamp, densities of *Sorex* were lowest in mature forests. Conversely, shrews were most abundant in cane stands and regenerating clearcuts, with the highest densities in 10- to 15-year old, mid-successional forested areas with grassy or shrubby understories. These habitats are now rare within the Dismal Swamp and will essentially disappear without active management to maintain them.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a problem.

C. *Disease or predation.* Not known to be a problem.

D. *The inadequacy of existing regulatory mechanisms.* As a faunal component of the Great Dismal Swamp National Wildlife Refuge, the subspecies is protected within Refuge boundaries from direct disturbance violations (to kill, possess, disturb, injure, damage, etc., without special permit) by 50 CFR 27.51. The main problem of the shrew, however, is not direct disturbance or taking, but alteration of habitat (see "A") and consequent vulnerability to genetic swamping (see "E").

E. *Other natural or manmade factors affecting its continued existence.* The Dismal Swamp southeastern shrew probably developed its distinctive size and coloration while geographically or ecologically isolated from its smaller upland relative, *Sorex longirostris longirostris*, during the late Pleistocene. Recent rapid changes in the Dismal Swamp (as described in "A" above) may have converted the swamp environment into habitat more suitable for the latter subspecies, apparently causing an ingress of *S. l. longirostris* into the swamp. The Dismal Swamp southeastern shrew is threatened through contact and interbreeding with this smaller subspecies (Handley 1980, Rose 1983). Rose (1983) found evidence of interbreeding between the two subspecies along the east and west periphery of the swamp. Evidence of contact and interbreeding is further reinforced by Rose's observation of a clear trend in size, from large to small shrews, as one moves peripherally from the Dismal Swamp. Because of the restricted distribution of the larger Dismal Swamp shrew, it is probable that the continued interbreeding of the two subspecies will eventually result in an infusion of genes of *S. l. longirostris* into the entire Dismal Swamp shrew population. This would constitute extinction for the Dismal Swamp southeastern shrew.

The hybridization process now jeopardizing the Dismal Swamp southeastern shrew is comparable to that which has nearly destroyed another mammal, the red wolf (*Canis rufus*), which is federally classified as endangered. According to Nowak (1979), the red wolf originally occupied a range and habitat in the forested southeastern United States, largely separate from that occupied by its smaller relative, the coyote (*Canis latrans*) of the western prairies. Human activities reduced red wolf numbers, disrupted its habitat, and allowed the coyote to invade its range. The latter species then began to interbreed with surviving red wolves. As a result, by the early 20th century zones of hybridization were evident in central Texas and the Ozark region. At that time there was a clear progression in size, ranging from the small coyote in the north and west, through intermediate-sized *Canis* in central Texas and the Ozarks, to the large red wolf in eastern Texas, Louisiana, and some adjacent areas. This situation was much the same as we see today in the *Sorex* of the Dismal Swamp region. No conservation measures were initiated for the red wolf until the 1960's, and by then the hybridization process had engulfed almost all of the species. The red wolf, in the pure form, has now

nearly or entirely disappeared from the wild. By catching the same process at an earlier stage, it may yet be possible to save the Dismal Swamp southeastern shrew.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Dismal Swamp southeastern shrew as threatened. The Act defines a threatened species as one which "is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." This status seems most appropriate for *Sorex longirostris fisheri* at this time. As stated above, the subspecies is jeopardized primarily by its limited distribution and the possibility of genetic swamping if present trends continue. These trends have not yet progressed so far that extinction appears imminent; they may be reversed by proper conservation measures. obtain data necessary for proper management, the interactions and ecology of the two shrew subspecies must be further studied. Such study involves trapping and, therefore, taking of shrews. Paradoxically, in this particular instance, such taking may be necessary to the survival of the threatened subspecies. For the reasons given below, no critical habitat is being designated.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. Implementing regulations at 50 CFR 424.12(a)(1) state: "A designation of critical habitat is not prudent when one or both of the following situtations exist: (i) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (ii) such designation of critical habitat would not be beneficial to the species." In the case of the Dismal Swamp southeastern shrew, the Service finds that a determination of critical habitat is not prudent. Such a determination would result in no known benefit to the species. Nearly all of the known habitat of this species lies within the Great Dismal Swamp National Wildlife Refuge, which is managed by the Service. The Refuge managers and all other involved parties are already aware of the occupied range of this species. Moreover, this final determination of threatened status will be followed by continued development of Refuge management strategies designed to benefit the Dismal Swamp southeastern shrew. Thus, no benefit would accrue from designation of critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperative provision of the Act are codified at 50 CFR 402 (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(2) requires agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

An overall management plan is currently being developed for the Great Dismal Swamp National Wildlife Refuge. This plan will be designed, in part, to consider the needs of *Sorex longirostris fisheri*. Land use practices likely to benefit this shrew would include: (a) increasing the height of the water table and (b) selective burning and other logging practices that maintain a mosaic of forested plots of differing ages in areas where *S. l. fisheri* is now predominant (Rose 1983). Intra-Service consultation on this master plan will be required as a result of this listing. The proposed highway by-pass mentioned in the Comments section above will also require formal consultation (by the Federal Highway Administration) as a result of this rule. Finally, the U.S. Army Corps of Engineers is considering closing the Dismal Swamp Canal.This action will also require consultation, to ensure that the closure is done in a manner consistent with the well-being of *S. l. fisheri*.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In come instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not otherwise available.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended.

A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Ms. Judy Jacobs, U.S. Fish and Wildlife Service, 1825B Virginia Street, Annapolis, Maryland 21401 (301/269–6324 or FTS 922–4197).

List of Subjects in 50 CFR Part 17

Endangered and Threatened Wildlife, Fish, Marine Mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Mammals," to the list of endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species			Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name							
MAMMALS								
*	*	*	*	*	*	*		
Shrew, Dismal Swamp southeastern	*Sorex longirostris fisheri*		U.S.A. (VA, NC)	Entire	T	246	NA	NA
*	*	*	*	*	*	*		

Dated: September 12, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–21757 Filed 9–25–86; 8:45 am]

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Friday
September 26 1986

Part V

Environmental Protection Agency

40 CFR Part 51

Reasonable Extra Efforts Program for Four Post-1987 Nonattainment Areas in California; Advance Notice of Ozone and Carbon Monoxide Control Program and Solicitation of Comment

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[A-9-FRL-3085-6]

Air Quality Implementation Plans; Reasonable Extra Efforts Program for Four Post-1987 Nonattainment Areas in California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of ozone and carbon monoxide control program and solicitation of comment.

SUMMARY: EPA is developing a new program in California called the "Reasonable Extra Efforts Program" (REEP) for steadily reducing emissiokns of hydrocarbons, nitrogen oxides, and carbon monoxide in four nonattainment areas of the State in order to attain the applicable national ambient air quality standards (NAAQS) as expeditiously as practicable. These areas are the South Coast Air Basin, Fresno County, Ventura County and the Sacramento area. REEP would apply to both ozone and carbon monoxide in the South Coast and Fresno and to ozone only in Ventura and Sacramento. EPA intends this announcement as an advance notice of how, in federal rulemakings on future revisions to the State Implementation Plan (SIP), EPA will judge the adequacy of the planning and regulatory efforts in these areas. EPA solicits public comment on the overall REEP and is also accepting public comment on each of the program elements of the REEP. In order to most effectively administer the Clean Air Act requirement to ensure attainment of the NAAQS, EPA intends to continue to work with the affected public to conduct a vigorous program of reasonable extra efforts in each post-1987 nonattainment area.

DATES: Although comments on this program will be welcome at any time, comments received will be fully considered in developing the program policies related to the REEP.

ADDRESSES: Comments should be addressed to: Judith E. Ayers, Regional Administrator, EPA, Region 9, Attention: Air Management Division (A-2), 215 Fremont Street, San Francisco, CA 94105.

All of the documents referenced in today's notice are available for public inspection during normal business hours at EPA's Region 9 office in San Francisco and at EPA's Headquarters' address noted below.

Reference Desk, EPA Library, Room 2904, 401 M Street SW., Washington, DC 20460 (202) 382-5922; FTS 382-5922.

Persons wishing copies of one or more of these documents may write or call the Information Contact listed below.

FOR FURTHER INFORMATION CONTACT: Lucille van Ommering, EPA, Region 9 (A-2), Air Management Division, 215 Fremont Street, San Francisco, CA 94105 (415) 974-8213; FTS 454-8213.

SUPPLEMENTARY INFORMATION: .

I. Background

A. Statutory Requirements

In 1970 Congress amended the Clean Air Act to establish a joint state and federal program to control air pollution. As required by the new sections 109 and 110, EPA established national ambient air quality standards (NAAQS) for such pollutants as photochemical oxidants (hereinafter "ozone") and carbon monoxide (CO), and called for states to submit state implementation plans (SIPs) providing for attainment of those standards within certain prescribed periods. Section 110(c) provided that EPA was to promulgate plans for areas that did not have adequate SIPs.

In many areas of the country, the original SIPs that EPA approved or promulgated in the early 1970s failed to bring about attainment of the ozone and CO NAAQS within the statutory deadlines. When Congress revised the Clean Air Act in August 1977, it added a new Part D, a planning process to revise the SIPs for nonattainment areas, and amendments to sections 107 and 110 to address this nonattainment problem.

In section 107(d) Congress instructed the states and EPA to identify all areas of the country that were not in attainment with the NAAQS. In the new section 110(a)(2)(I), Congress required the SIPs for these "nonattainment areas" to contain either measures meeting the requirements of Part D or a moratorium on the construction and modification of major stationary sources.

Part D extended NAAQS attainment dates but tightened control requirements for both new and existing sources. In sections 172(a) and 129(c), Congress directed the states to submit by January 1, 1979, state implementation plans that provided for attainment of the primary, health-based standards as expeditiously as practicable but, except for certain ozone and CO nonattainment areas, not later than December 31, 1982. These Part D plans were also to provide for all emissions reductions available from applying "reasonably available control technology" (RACT) to existing sources, and to establish a permit program under section 173 for the construction and modification of new major stationary sources. Ozone and CO nonattainment areas could received extensions of the attainment date to as late as December 31, 1987 if they could show that attainment would not occur by the end of 1982 even with the application of all reasonably available control measures. These "extension" areas were to submit by July 1, 1982, Part D plan updates providing for attainment by December 31, 1987.

Congress also provided that additional consequences could result from the failure of states to submit adequate Part D plans. First, after July 1, 1979, the construction ban for major new sources required by section 110(a)(2)(I) would apply in any nonattainment area that lacked an approved plan that met the Part D requirements. Further, Congress provided in section 176(a) that states that did not submit or did not make reasonable efforts to submit adequate Part D plans for the transportation-related pollutants (ozone and CO) would be subject to a cutoff of certain highway construction funds disbursed by the Department of Transportation, as well as Clean Air Act grant assistance funds. Moreover, Congress also established that a state that failed to implement its SIP would be subject to a cutoff of Clean Air Act grant funds (section 176(b)), a construction ban for major new sources (section 173(4)), and a cutoff of sewage treatment grant funds (section 316(b)).

B. Regulatory Background

1. National Policy

On March 3, 1978 EPA promulgated the attainment status designations required by amended section 107 (43 FR 8962). On April 4, 1979 (44 FR 20372), EPA issued a "General Preamble" describing in detail the prerequisites to EPA approval of the SIP revisions that Part D required the states to submit by July 1, 1979 for designated nonattainment areas. By July 1, 1979, no nonattainment area had a fully approved Part D SIP. For that reason, EPA published a regulation that applied the section 110(a)(2)(I) construction ban in each nonattainment area that lacked such a SIP (see 40 CFR 52.24).

On April 10, 1980 (45 FR 24692), EPA and the Department of Transportation published a joint policy for the implementation of the section 176(a) funding restrictions. The policy stated that EPA would determine case by case whether a state is making "reasonable efforts" to submit a plan that satisfies Part D for a particular area.

On January 22, 1981 (45 FR 7182), EPA issued new policy describing the criteria it would use to judge the 1982 Plan updates due July 1, 1982 from extension areas (the "1982 SIPs"). This 1982 SIP policy specified minimum control measures for these areas and required them to implement all additional measures that could be implemented in time to bring about attainment by the end of 1987. Examples of such measures were:

(1) Requiring control of all major stationary sources to levels more stringent than those generally regarded as RACT;

(2) Extending controls to stationary sources and source categories other than those subject to the minimum control measures;

(3) Implementing a broader range of transportation controls (e.g., extending the geographic coverage of some measures or providing more intensive implementation); and

(4) Increasing the coverage and stringency of the vehicle emissions inspection and maintenance (I/M) program.

The 1982 SIP policy envisioned that some extension areas would be unable to demonstrate attainment of the ozone or CO standard by the end of 1987 even with these measures. For these areas, it instructed the states to "analyze the transportation and other measures possible in a longer time frame that, together with the measures already evaluated, will result in attainment as quickly as possible after 1987." (45 FR 7188). The notice added:

> If an area is unable to attain the ozone and carbon monoxide NAAQSs by 1987, then the "most expeditious date beyond 1987" must be agreed to by state and local agencies. . . . EPA believes that an approach which requires a state to demonstrate attainment by a certain date using measures it is committed to implement is more in keeping with the spirit of the Clean Air Act than an approach which would accept "paper" demonstrations of attainment by 1987 which relied on measures which would be virtually impossible to implement. *Id.*

Thus, EPA was prepared in 1981 to consider extensions of the attainment dates for areas that could not demonstrate attainment by December 31, 1987 so long as their SIPs were to attain the NAAQS as expeditiously as practicable thereafter.

In November 1983, EPA issued a notice explaining its policy for areas that missed the December 1982 deadline (48 FR 50686). EPA set forth the policy that it would not impose a construction ban or the funding restrictions simply because an area failed to attain the standards in time. Instead, EPA announced that it would impose such sanctions only if a state were not making a credible, productive effort to create and adopt an adequate plan. EPA stated that it would measure the adequacy of "corrective SIPs" for these areas by whether the plans would bring about attainment "as expeditiously as practicable", even if beyond the statutory date. The policy directly addressed only nonextension areas that had not attained the standards by December 31, 1982.

Shortly after issuing this policy in November 1983, EPA issued a "Guidance Document for Correction of Part D SIPs for Nonattainment Areas". That document stated that EPA intended to use the 1981 guidance on "post-1987" extension areas as a basis for determining whether EPA would apply funding restrictions in any such area. It also required SIPs for these "post-1987" areas to "commit to an ongoing program for evaluating and carrying out additional controls as they become available, including those that can be implemented over a longer time frame (i.e., beyond 1987)." *Id.* at 49. Finally, the document stated, "This program must be carried out on a continuing basis until the area actually attains the NAAQS." *Id.*

2. Regulatory Actions in the California Areas

In the initial round of Section 107 nonattainment designations, EPA designated Ventura County and the Sacramento Air Quality Maintenance Area as nonattainment for ozone, and the South Coast and Fresno County as nonattainment for both CO and ozone. After EPA's July 1979 imposition of the Section 110(a)(2)(I) construction moratorium, the State submitted and EPA approved the 1979 Part D SIPs for all four areas. As a result of those approvals, the Agency lifted the construction ban.

As part of the initial round of Part D SIP planning, the State of California requested EPA to approve extensions of the statutory attainment date to December 31, 1987 for the relevant pollutants in all four areas. EPA approved all of the requests. The State then submitted 1982 Plan updates for the ozone SIPS for all four areas as well as for CO SIPs for the South Coast and Fresno. Although these SIP revisions include control measures that would produce expeditious progress toward attainment of the applicable standards, they did not demonstrate that the areas would attain the standards by the statutory date of December 31, 1987.

On February 3, 1983 (48 FR 5074), EPA proposed to disapprove the State's submittals, primarily because they failed to demonstrate attainment of the standards by the statutory attainment date. EPA indicated that a final disapproval would result in EPA's imposition of the section 110(a)(2)(I) construction moratorium. The proposal drew many comments questioning EPA's threatened use of sanctions and urging instead that EPA use a "reasonableness" test to decide whether to impose sanctions. Some commenters argued that these nonattainment areas were working as expeditiously as practicable to reach attainment and were implementing in good faith all reasonably available control measures, as well as some control measures going beyond RACT. They suggested that disapproving the 1982 SIPs for these areas would be inconsistent with EPA's 1982 SIP policy which indicated EPA's willingness to accept post-1987 attainment of the ozone and CO standards if the plan included a convincing demonstration that the State would implement all reasonably available control measures as expeditiously as practicable.

In response to these comments and after a general review of EPA's sanctions policies, on July 30, 1984 (49 FR 30300), EPA took final action to approve the control measures in each of the 1982 SIPs for the four California areas because they would strengthen the SIP, and explicitly took no action on the attainment demonstration and the provision to sustain reasonable further progress (RFP) in reducing emissions in those SIPs.

EPA did not impose the section 110(a)(2)(I) construction moratorium in the four areas. Instead, EPA stated that it would perform an in-depth evaluation of what control measures would be required to demonstrate attainment of the applicable NAAQS in those areas and, consistent with section 176(a), would "determine whether all reasonable efforts continue to be made to submit an approvable SIP." 49 FR 30304. With these statements, EPA initiated a policy that has now evolved into the Reasonable Extra Efforts Program (REEP) described below.[1]

[1] Mark Abramowitz, a citizen residing in Los Angeles, petitioned the U.S. Court of Appeals for the Ninth Circuit for review of EPA's final rulemaking on the SIPs for these areas. The parties have agreed to stay the case pending EPA's implementation of the REEP, which is described in a letter of understanding attached to the stipulation. The court has agreed to a temporary stay of the case pending a report on the status of the implementation of the REEP and further requests to

Continued

C. The Current Dilemma

At the present time, ambient CO and ozone concentrations in the four California nonattainment areas are well above the applicable NAAQS. The State has recognized since 1982 that the control measures in the SIPs for these areas will not bring about attainment of those standards by the end of 1987. Moreover, additional measures that may now be reasonably available would not be adequate by themselves to bring about attainment. Rather, it seems that only severe restrictions on emissions sources could reduce CO and ozone levels to the substantial extent needed to meet the standards by December 31, 1987.

On its face the Clean Air Act requires states either to submit plans that provide for attainment by the end of 1987 or to face plan disapprovals, the imposition of sanctions, and federal plan promulgations. Thus, the statutory language seems to impose on these areas a choice between implementing whatever measures are required to attain the standards by the statutory date, even if those measures would cause severe economic disruption, and enduring federal imposition of sanctions.

However, neither the Clean Air Act nor the legislative history expressly addresses the inability of all reasonably available control measures to bring about attainment in an area by the statutory dealine. Furthermore, the history of the 1977 Amendments reveals two themes that suggest that Congress would not have intended these areas to suffer sanctions for their failure to implement extraordinary measures needed to meet the 1987 date. First, the history reveals Congress' strong desire to achieve the Act's air quality goals without suppressing economic growth. Second, Congress created the sanctions to address the failures of states to plan seriously and diligently to bring about attainment and not to punish states that, despite good faith efforts, could not bring about attainment without imposing severely disruptive measures.

This apparent conflict between the language of Part D and the legislative themes underlying that language leaves EPA without clear direction on how to achieve attainment of the CO and ozone standards in these California areas, as well as other areas in the country facing similar circumstances. To find a way through these uncharted waters, EPA has decided to initiate a broad public dialogue on how EPA should interpret Part D for these persistent nonattainment areas. To launch that dialogue, the Administrator of EPA addressed the annual convention of the Air Pollution Control Association (APCA) in Minneapolis on June 23, 1986. There, the Administrator noted that many areas in the nation face a situation similar to that of the California post-1987 areas and discussed EPA's preliminary thinking on alternative options for addressing the problem.

The Administrator indicated in his speech that EPA is not inclined to ignore failures to meet the 1987 deadline until Congress itself addresses the question. He described that option as inconsistent with Congress' obvious desire to achieve expeditious progress toward attainment and with EPA's clear responsibility to act in the spirit of the statute. Rather, EPA is now seeking to include interested members of Congress in the dialogue on how to proceed in the interim. As part of that interaction, EPA intends to discuss its evolving thoughts on how well each of the policy options described below fits the terms and spirit of Part D.

As indicated in the Administrator's APCA speech, EPA has been considering three alternative approaches to post-1987 nonattainment. First, EPA has considered imposing sanctions on every area that does not attain the standards by the end of 1987 and lifting those sanctions only upon actual attainment of the standards. As the Administrator stated before APCA, however, for the reasons expressed in the November 1983 policy EPA is not inclined toward choosing that option. EPA believes that Congress created the sanctions as tools to require diligent planning, not punishments for failures to attain the standard.

The Administrator also indicated that EPA is not inclined to require all post-1987 areas to submit new SIP revisions demonstrating attainment within a fixed period comparable to that provided initially to nonextension areas under section 172 (e.g., three to five years). That option, he noted, would impose on areas with the worst air quality the same unacceptable choice between disruptive control measures and sanctions.

Instead, the Administrator outlined a program that would require revisions demonstrating attainment within a fixed, short period only for areas that can attain within that period without implementing unreasonable control measures and, for areas with intractable nonattainment problems, would require periodic SIP revisions to achieve only the progress toward attainment achievable by implementing all control measures found to be reasonably available at the time. In this way, these areas could achieve attainment "as expeditiously as practicable", as required by section 172, while showing sustained progress toward that goal in the interim. Under this option, EPA would reserve sanctions only for areas that did not make reasonable efforts to show such progress through diligent planning and implementation.

Although EPA now believes that this approach represents the best way of satisfying the purposes of Part D, the Agency recognizes that its approach presents difficult legal issues. Part D sets forth a scheme requiring diligent planning to attain the standards by a fixed date. Yet the approach just described would focus on achieving the implementation of all reasonably available measures and not on a specific attainment date. This would be a major shift in focus of the Act. EPA requests comments on the legality and appropriateness of this shift and intends to address the issue further in its dialogue with Congress, and when it publishes a policy addressing post-1987 nonattainment for the nation as a whole.

As proposed in the Administrator's speech to APCA, EPA would implement the preferred approach by (1) improving the effectiveness of current regulations; (2) implementing new national measures and policies; (3) requiring the submittal of SIP revisions and initial modeling demonstrations for most nonattainment areas; and (4) creating a sustained progress program to address long-term nonattainment.[2]

EPA believes that the REEP designed for the four post-1987 areas of California is similar in approach to the proposed direction of the new national policy. However, whereas the Administrator has suggested that the national post-1987 program might be implemented via a section 110(a)(2)(H) SIP call, EPA does not believe that a call for a Section 110 SIP revision is applicable at this time to the four post-1987 areas in California as EPA has never fully approved the 1982 SIP for these areas. Furthermore, EPA does not believe that issuing a new Section 110 SIP call would result in a more expeditious implementation schedule than the one currently

continue the stay. The terms of the letter of understanding are not enforceable by the court. Instead, the petitioner's recourse, should EPA not implement the program, would be to reactivate the litigation. The letter does not set forth the minimum criteria for Part D SIPs for post-1987 areas; nor does it represent final EPA policy on the REEP.

[2]The current schedule for developing the national strategy anticipates a proposal in the **Federal Register** in late 1986. Following an appropriate period for receipt and review of public comment, EPA will publish a final ozone policy.

envisioned under the REEP, nor would it result in an earlier demonstration of attainment.

D. Advanced Schedule for California's Ozone Program

While a national ozone policy may not be finalized until mid-1987, the Administrator has endorsed the need for California's post-1987 areas to move ahead of the national schedule—at least until a new national policy is published. There are several compelling reasons for this advanced schedule for California.

First, as early as 1982, California identified that four areas in the State could not demonstrate attainment by December 31, 1987 of the CO and/or ozone NAAQS despite the adoption of control measures which met or exceeded the minimum EPA requirements for extension areas. Since then, the State has worked with EPA to develop a program to ensure sustained progress in achieving the CO and ozone NAAQS as expeditiously as practicable. It would be counterproductive and environmentally unsound to put this program on hold while the details of a national policy are discussed.

Second, the 1982 SIP for each of the four post-1987 areas contains a commitment to continue to adopt all reasonably available control measures to attain the standards. Additionally, each of the four plans contains a contingency plan which commits each nonattainment area to investigate the feasibility of additional control measures when the adopted plan is determined to be inadequate for purposes of demonstrating sustained emission reductions pursuant to RFP. EPA interprets both of these actions as a standing commitment to pursue additional controls until NAAQS attainement is demonstrated. Freezing the current planning efforts would compromise these standing commitments.

Third, pursuant to its final rulemaking on the 1982 SIP for the four post-1987 areas, EPA has investigated whether additional measures exist which are reasonably available for implementation by 1987. As a result of this analysis, which has been performed in association with the relevant State and local agencies, EPA believes that there are control measures that are reasonably available *now* which go beyond the adopted 1982 plans for each of the four areas. It would be inappropriate for EPA, the State, and the four post-1987 areas to defer action on those measures, especially in light of the standing SIP commitments described above.

Fourth, EPA's 1982 SIP policy for CO and ozone extension areas, as well as the 1984 guidance on the correction of Part D SIPs, called on states with post-1987 areas to commit to adopt and implement such measures beyond the minimum measures outlined in that guidance as would bring about attainment as expeditiously as practicable after 1987. Thus, an EPA policy allowing a temporary hold on the current post-1987 planning efforts in these areas would reverse long-held Agency policy on the issue.

Finally, EPA has the authority under Part D to require expeditious planning schedules and the adoption and implementation of all reasonably available control measures. Section 172 requires a demonstration that these areas will attain the standards as expeditiously as practicable, and the sanctions prescribed by sections 110(a)(2)(I), 176(b), 173(4), 176(a) and 316(b) remain available to address failures of these areas to meet the Clean Air Act's planning and implementation responsibilities.

For these reasons, EPA believes that it should continue to implement its ongoing program for Part D plan improvements in each of the four California post-1987 areas. The remainder of this notice outlines the program, known as the "Reasonable Extra Efforts Program", that EPA contemplates for this purpose. EPA intends that this announcement shall serve as an advance notice of how, in future SIP rulemakings, EPA will judge the adequacy of the Part D planning efforts in these areas.

II. Reasonable Extra Efforts Program

Under the REEP, EPA expects the State to submit a SIP revision "REEP SIP") by February 1987 which contains an updated 1982 plan schedule ("REEP SIP schedule") for each of the four post-1987 nonattainment areas. The details of that SIP revision are described below.

A. Overall Concept

The REEP has been initiated by EPA to ensure that post-1987 nonattainment areas in California steadily reduce emissions in order to attain the NAAQS for ozone and carbon monoxide. This is to be accomplished as expeditiously as practicable by implementing control measures and other program enhancements which go beyond those contained in the federally-approved 1982 SIP control strategy. To this end, the Program is a collaborative effort involving the active participation of the California Air Resources Board (CARB), the California Department of Transportation (Caltrans), local air pollution control districts (districts) and local lead agencies responsible for Part D SIP planning and implementation in post-1987 areas in California. Under REEP, these agencies are given the task of developing and adopting a broad spectrum of program enhancements, both regulatory and non-regulatory in nature [3] which go beyond currently adopted SIP control strategies to the extent necessary for attainment. As such, this program will be an iterative process, involving these agencies in the review, development, adoption and implementation of measures and other program improvements until NAAQS attainment is demonstrated.

The REEP consists of two main components: (1) Control strategy development and (2) program enhancements identified through auditing of SIP implementation. Both of these components would be addressed beginning with the State's submittal to EPA by February 1987 of updated and enforceable REEP SIP schedules for consideration of those measures and other program improvements ("REEP SIP measures") determined to be necessary to achieve the NAAQS as expeditiously as practicable.

EPA expects the State to submit periodically (presumptively every two years, beginning in February 1987) an enforceable REEP SIP containing commitments with dates which constitute an expeditious schedule to: (1) Consider for adoption additional measures which are necessary to demonstrate reasonable efforts under Part D of the Clean Air Act; (2) decide which of those additional measures to adopt, and adequately justify the rejection of any applicable REEP SIP measures; and (3) implement the adopted REEP SIP measures.

B. Determinations of Reasonable Efforts and SIP Implementation

EPA will make periodic findings of whether the State is making reasonable efforts to submit an adequate Part D SIP for these four areas. In making such findings, EPA will consider all relevant factors, including adherence to REEP SIP requirements. If EPA determines that the State is not making reasonable efforts in any of the four areas pursuant to section

[3] By regulatory, EPA means development and adoption of measures which are contained in a SIP control strategy required under Part D of the Clean Air Act. By non-regulatory, EPA means activities of an air pollution control program other than rule development related to planning and rule implementation of control measures, including operational or administrative practices, enforcement, source permitting, emissions and SIP implementation tracking, and emissions data gathering.

176(a), it will initiate a public notice and comment rulemaking under section 176(a) to impose the highway and/or Clean Air Act grant funding restrictions provided by that section.

EPA also will make periodic findings of whether the relevant State and local agencies are implementing the commitments in the REEP SIP schedule, as well as the REEP SIP measures actually adopted by those agencies. If EPA determines that impelementation is not proceeding on schedule, it will initiate a rulemaking to make a finding of non-implementation and to impose one or more of the available sanctions under sections 173(4), 176(b), and 316(b).

EPA is cognizant of the potential, however small, of inconsistencies which may occur between the REEP and the new national ozone policy once finalized. This would be of particular concern if EPA were to impose sanctions under the REEP for failure to make reasonable efforts using different criteria than those eventually used for the rest of the country under the national policy. While section 176(a) sanctions would be imposed for failure to submit a REEP SIP, once the REEP SIP schedule is approved, EPA does not intend to impose section 176(a) sanctions on the State or any local control agency for not making reasonable efforts unless the Administrator makes an affirmative finding that there would be no inconsistency between this action and the policy contemplated for the rest of the country.

It should also be noted that any decision to defer a reasonable efforts determination on the REEP SIP measures will not relieve EPA from its responsibilities under the Clean Air Act to ensure that adopting agencies consider measures according to the REEP SIP schedule or that an adequate justification is provided by adopting agencies for any measures which are rejected. A failure to meet these requirements by the State or post-1987 area agencies can lead to an EPA finding of nonimplementation and the imposition of sanctions under section 176(b) of the Clean Air Act.

C. Control Strategy Development

The REEP process includes the investigation and development of improvements to strengthen the control strategy portion of the adopted 1982 SIP.

For specific stationary and mobile source categories, including transportation control measures (TCMs), this comprises analyses of: (1) Existing measures which could be strengthened; and (2) new measures where the technology appears to be feasible and effective. Based on this evaluation, EPA would periodically identify opportunities for additional emissions reductions and recommend consideration by the State and local control agencies.

D. SIP Auditing

Under the second component of the REEP process, the use of comprehensive program audits would be conducted under EPA and CARB leadership with the assistance of relevant local districts. The aim of the audit would be to identify and correct regulatory and non-regulatory air pollution control program deficiencies in order to maximize the effectiveness and enforceability of the SIP. The audit would concentrate on making improvements to air pollution control program operational practices covering rule development and enforcement, source permitting, emissions and SIP implementation tracking, and emission data gathering.

At the conclusion of the audits, the investigating agency would recommend areas for improvement in the audited program for consideration by the local control agency. EPA intends to periodically track, evaluate and make recommendations for improvements to SIP implementation in each post-1987 area via the comprehensive audits and through an annual tracking system for evaluating overall plan performance. This evaluation in turn is expected to result in further improvements in SIP implementation.

E. REEP SIP Development

When developing a REEP SIP schedule, the State and appropriate local agencies in each post-1987 area should be guided by the following considerations as they relate to the control strategy development and SIP auditing components of the REEP SIP:

• Stationary Source Measures

Each local district in a post-1987 area should give highest priority to considering and undertaking those control measures for which: (a) A district rule is either missing or contains a major deficiency; (b) there are significant potential emission reductions to be gained; and (c) field evaluations provide evidence that the change is warranted.

Additionally, each district should consider: (a) The existence of field evaluations for any rules which have already been investigated; (b) the amount of the potential emission reductions from the proposed action, if quantifiable; and (c) the availability of new information which supports adoption of previously considered but rejected measures.

• Transportation and Mobile Source Control Measures

Each local planning agency should include a workplan to analyze TCMs for applicability to reduce emissions, legal authority, adequate implementation resources, and public benefits. The TCM portion of the REEP SIP should also include analysis completion dates and schedules for transmitting analysis results to local government implementing agencies for consideration and action on specific TCMs.

The State of California should adopt a REEP SIP schedule for consideration of those mobile source and transportation control measures which are Statewide in nature and specifically reserved to the State for adoption and implementation. At a minimum, the State portion of the REEP SIP should contain a schedule to consider the adoption of additional TCMs and motor vehicle control measures. For the motor vehicle control measures category, this should include: (a) Excess emissions from regulated motor vehicles that are attributable to manufacturer deficiencies in design and/or improper vehicle maintenance and care; (b) more stringent emissions standard for certain motor vehicles; and (c) the use of alternative fuels and power sources related to motorized vehicles.

• Program Audits and Field Evaluations

Each REEP SIP should contain a commitment by local agencies to work with the State and EPA to correct any deficiencies in a district's programs as identified by comprehensive program audits to determine needed improvements to air pollution control programs (program audits), and studies of stationary source rule effectiveness in practice (field evaluations); as such, administrative practices, resource usage, training, and potential regulatory changes to existing rules to ensure effectiveness should be addressed. EPA encourages each post-1987 area to consider other ways the effectiveness of SIP implementation could be improved. Where a REEP audit has not been completed in time for REEP SIP adoption, the REEP SIP should contain a commitment by the relevant agency to work with the State and EPA to perform and complete such an audit.

F. REEP SIP Revision

By February 1987, and presumptively every two years thereafter, each post-1987 area will be required to have submitted to EPA a separate SIP

submittal, or REEP SIP. This submittal would contain commitments with expeditious schedules to (1) consider for adoption any additional measures which are necessary to demonstrate reasonable efforts under Part D of the Clean Air Act; (2) decide which of those additional measures to adopt and adequately justify the rejection of applicable REEP SIP measures; and (3) implement the adopted REEP SIP measures. These commitments by the adopting agency(ies) would be subject to Part D requirements related to consultation and public notice.

The REEP SIP schedule would be adopted by the appropriate districts and other local lead Part D SIP planning agencies, and would be approved by the State prior to submittal to EPA by February 1987. The State would also adopt and submit by February 1987 a REEP SIP schedule for consideration of those measures legislatively reserved to the State for adoption and implementation.

The REEP SIP schedule would include consideration of any EPA evaluations covering (1) new, and improvements to existing, stationary source control measures; (2) new, and improvements to existing, mobile source measures and TCMs; and (3) program audits and field evaluations.

The schedule should be prioritized according to the contribution of the REEP SIP measures to making a demonstration of progress as expeditiously as practicable toward the attainment of the standards. At a minimum, the REEP SIP schedule due by February 1987 would include consideration of those measures contained in the EPA-directed initial investigation of feasible control measure improvements (see below), and corrections to air pollution control program deficiencies identified by SIP auditing and field evaluations. It should be noted here however that limiting a REEP SIP to measures identified by EPA through its initial investigation may not be sufficient. State and local adopting agencies should therefore make every effort to investigate and consider the feasibility of additional measures beyond EPA's list or give higher priority to other measures which the adopting agency believes to be more applicable and/or effective than EPA's initial list.[4]

[4] To the extent necessary for attainment, adopting agencies should also investigate control strategies which may take longer than five-to-ten years to implement but which can result in significant emissions reductions in the long term. Additionally, EPA believes that any activity which may lead to a reduction of CO emissions and/or ozone precursors is a candidate for inclusion in the REEP SIP. The State's reliance on control of ozone precursors must be approved by EPA for each post-1987 area prior to submittal of the REEP SIP.

The REEP SIP schedule should contain critical dates for the adoption and implementation of the REEP SIP improvements, e.g., dates when decisions will be made whether to proceed to a public hearing on a specific measure or whether to make nonregulatory program improvements not requiring a public hearing; public hearing dates to consider adoption of REEP SIP measures; and effective implementation dates for those REEP SIP measures which are adopted.

Unless shown by an adopting agency to be totally inapplicable or ineffective for a specific community, EPA would presume that the REEP SIP measures specifically identified by EPA would be included for consideration in the REEP SIP. EPA expects the prescribed local, State and federal SIP public consultation and notice process to assist each adopting agency in determining (a) what measures should be considered and/or undertaken and when, and (b) a reasonable time frame for performing the work. The resulting schedule must demonstrate that a post-1987 area is making reasonable efforts to submit an adequate Part D SIP.

EPA also expects the REEP SIP to include commitments by the State and appropriate local agencies in each post-1987 area to work with EPA to: (a) Develop new and improved existing mobile source, stationary source, and transportation control measures; (b) identify needed air pollution control program improvements through auditing; and (c) assist in the performance of field evaluations.

G. REEP Work to Date

Actual work on the concept of a reasonable extra efforts program began in February 1985. Between then and the present, EPA has been conducting a series of meetings with post-1987 area local districts, metropolitan planning organizations, business associations, industry and public interest groups. The purpose of these meetings has been to explain to key organizations in the decision-making process the compelling basis for proceeding with additional efforts to ensure expeditious attainment of the schedule.

From February 1985 through May 1986, an initial investigation of potential control measures was directed by EPA and assisted by a variety of agencies, technical working groups, and experts in the fields of air pollution control and transportation planning. Participating groups have included: (1) Federal, State and local regulatory agencies; (2) regional planning agencies; (3) technical review groups of these agencies studying stationary and mobile source-related measures; and (4) EPA-directed consultants. This investigation has included technical analyses of the main groups of control measures covering stationary sources, TCMs, mobile sources, and new source permitting. The purpose of the analyses was to determine whether additional controls were available and the technical requirements of such controls. The results of these evaluations were then provided to the Senate and relevant post-1987 area agencies for initial consideration. Since November 1985, the State and EPA have been meeting with the districts and regional planning agencies for the four areas to discuss the results of the technical analyses.

In October 1985, the CARB committed to develop a mobile source element to the REEP SIP. In May 1986, EPA notified each post-1987 area by letter that EPA expected relevant post-1987 area agencies to consider and adopt a schedule of those REEP SIP measures they would undertake to meet Part D Clean Air Act requirements. The State would then provide both the State and local portions of the REEP SIP schedule to EPA as a SIP submittal; as such, the schedule would constitue the framework upon which future analysis, regulations, measures, projects and air program improvements would occur.

- Evaluation of Stationary Source Controls

Existing Measures—EPA has performed evaluations of existing regulations covering sixteen categories of volatile organic compound (VOC) stationary source controls in order to identify opportunities where existing emission controls could be strenthened. The sixteen categories for which REEP evaluation reports were prepared are:

1. Aerospace Coatings
2. Architectural Coatings
3. Automobile Refinishing
4. Bulk Terminals
5. Can and Coil Coatings
6. Degreasing
7. Fiberglass Impregnation
8. Flat Wood Paneling
9. Graphic Arts
10. Miscellaneous Metal Parts and Products
11. Oil Production
12. Paper, Film and Fabric Coatings
13. Petroleum Dry Cleaners
14. Refinery and Chemical Fugitives
15. Vegetable Oil Manufacturing
16. Wood Furniture Coatings

New Measures—A joint technical review process exists by which federal, State and local air pollution control agencies in California discuss and

evaluate the continuing development of new control measures. Under this process, the potential for new control is assessed for a specific source category and a new "suggested measure" for that category is drafted. Measures which show promise are forwarded to districts for adoption consideration. Under this process, an assessment of the control potential for the following categories of currently unregulated sources is to be undertaken within the next two years:

1. Wineries
2. Marine Vessels, Ballasting
3. Marine Vessels, Housekeeping
4. Commercial and Consumer Solvent Use
5. Semi-Conductor Manufacturing
6. Large Commercial Bakeries
7. Weed Oils
8. Industrial Boilers
9. Fiberglass—Plastic Fabrication
10. Rigid and Floppy Disc Manufacturing
11. Vegetable Oil Manufacturing
12. Oil Production Sumps

• Evaluation of Transportation Control Measures

EPA, CARB, and other agencies in California co-sponsored a Transportation/Air Quality Symposium in May 1985 to provide nonattainment areas with current information of air quality-beneficial transportation projects throughout the country which could be applied to comparable areas in Region 9.

In May 1986, EPA issued a "Guidance Document for Reasonable Extra Efforts Transportation Control Measures" which included information documents on eight broad categories of TCMs. All of the documents were developed by the State and EPA and were reviewed by federal, state, and local air pollution control and transportation agencies in Region 9. The Guidance Document outlines the policy procedures for preparing the transportation portion of the REEP SIP. In the eight information documents, individual control measures are identified within each TCM category that appear to have the potential for reducing emissions beyond the current SIP.

Examples of the categories which the information documents cover include:

- Ridesharing Programs—Carpool/vanpool programs
- Traffic Flow Improvements—Programs which alleviate congestion
- Parking Strategies—Programs providing disincentives for single occupant vehicles and incentives for high occupancy vehicles
- Transit—Programs which encourage the use and increase the efficiency of public transportation
- Control of Extensive Idling—Programs which discourage situations resulting in extensive automobile idling.

• Evaluation of Mobile Source Controls

As a result of a CARB hearing held in October 1985, the State committed to investigate the feasibility of further motor vehicle controls covering: (1) More stringent emissions standards for certain motor vehicles; (2) programs to reduce emissions in excess of current vehicle standards; and (3) applications of new technology, e.g., electric vehicles and the use of methanol in vehicles.

As part of this commitment, the State took partial action on the mobile source portion of the REEP SIP by adopting a Statewide reduction goal of 190 tons/day for hydrocarbon emissions and 2,030 tons/day for carbon monoxide emissions by the year 2000. For the South Coast, this goal would be translated into 80 tons/day for hydrocarbon emissions and 870 tons/day for CO emissions. These goals are to be met through the development and implementation of specific mobile source control measures. They are intended to replace, in part, long range strategies adopted by the State as part of the 1982 SIPs, with a commitment to achieve a minimum quantifiable reduction through the development of an excess emissions reduction strategy.

• Comprehensive Program Audits

Two of the four post–1987 areas (Ventura and Fresno) have had recent program audits conducted which were sufficient in scope to serve as the basis for the REEP comprehensive program audit. EPA will offer recommendations for program improvements to these districts prior to their adoption of the 1987 REEP SIP.

The remaining two post–1987 areas (South Coast and Sacramento) will undergo comprehensive program audits during the summer and fall of 1986, respectively.

Additionally, to assist post–1987 area districts, EPA is performing the following analysis related to New Source Review (NSR): (1) Assessment of each local district's program for the administration of the NSR rule through a detailed comprehensive audit; and (2) assessment of the overall effectiveness of the existing NSR program in meeting the objectives of the Clean Air Act.

This analysis will be used by EPA to assess the performance of existing NSR programs in each post–1987 area and will be the basis for any changes in (a) administrative practices related to the issuance and enforcement of permits, and (b) the NSR rule itself, which EPA may recommend prior to a district's time frame for adoption of a REEP SIP.

III. Public Comments

EPA is soliciting public comments on all aspects of the REEP as described in this notice and the documents referenced in this notice. EPA considers today's action as only one component of an ongoing effort to conduct an active, open, and effective dialogue with all interested groups to define the best possible way to address the nonattainment problem and to achieve the NAAQS in California. The general policy goals announced for the REEP will be pursued in public notice and comment rulemakings on individual SIP revisions. In these individual rulemaking actions, interested parties will have full opportunity to comment on the specific implementation of the REEP's general principles and to seek judicial review. However, this notice is not a final regulatory action and is therefore not subject to judicial review under section 307(b) of the Clean Air Act. Other opportunities will also occur over the next several months through meetings with government agencies, the public and the private sector on the general program approach and specific issues related to ozone control strategy development.

EPA is accepting comments on all aspects of the REEP, including especially its legal underpinnings and the factors EPA should consider in making reasonable extra efforts determinations. With regard to the legal basis for REEP, EPA suggests that commenters consider the following issues: (a) Whether a program requiring plans showing only expeditious progress toward attainment in these California areas, rather than actual attainment by the end of 1987, is consistent with Congressional intent; and, (b) whether EPA may withhold imposition of the construction ban in these areas if they are still experiencing violations of the standards once 1987 passes.

With regard to the second topic, EPA is inclined to assess reasonable efforts as the extent to which commitments are made by State and local agencies to ensure that Part D requirements are met expeditiously, through implementation of the 1982 SIP and the adoption and implementation of a REEP SIP schedule. Following submittal of the California REEP SIP due February 1987, EPA will publish rulemaking which proposes to approve or disapprove the schedule. If EPA determines, after public consultation, that the schedule itself is not sufficiently adequate to constitute reasonable efforts on the part of the State, EPA will initiate a rulemaking, in accordance with the procedures outlined

in 45 FR 24892 (April 10, 1980) and in coordination with the Department of Transportation, to impose the funding cutoffs described in section 176(a).

When determining whether the State has made such reasonable efforts, EPA intends to consider all relevant factors including giving significant weight to each of the following:

(a) Whether commitments which were adopted in the 1982 Plan pursuant to EPA's 1982 Plan policy continue to be met;

(b) Whether EPA receives a REEP SIP schedule from the State updating the 1982 SIP schedule and containing commitments of the relevant State and local agencies to consider the development, adoption and implementation of all additional CO and/or ozone measures and other program enhancements necessary to attain and maintain the relevant NAAQS as expeditiously as practicable;

(c) The extent to which the State and local agencies commit to consider those control measures and program enhancements which EPA has identified through its investigation of feasible regulatory improvements and programs audits for the relevant area;

(d) Whether the State and local agencies adequately justify any decision not to commit to consider the adoption and/or implementation of any measures and other program enhancements that EPA has identified through its investigation of feasible regulatory improvements and program audits for the relevant area;

(e) The extent to which the State commits to implement existing federally-mandated controls or new federally-mandated controls which EPA may identify in guidance to the State as presumptively reasonable for application in urban areas around the country;

(f) Whether the State adequately justifies any failure to adopt and implement controls which EPA identifies in guidance to the State as presumptively reasonable for application in urban areas around the country; and

(g) Whether the State and local agencies commit to expeditious adoption and implementation of control measures that are reasonably available and provide a reasonable potential for air quality improvement.

While EPA is accepting comments on all aspects of the REEP, EPA would like to focus attention and comment on one area of the Program which currently requires special consideration. Namely, how should the process and criteria that EPA uses in making its determination of reasonable efforts be refined? The following are specific questions which should help focus the comments.

1. To what extent should the cost of control measures be considered? What cost factors should be examined? Should all available control measures be presumed to be mandatory unless demonstrated to EPA to be infeasible for a specific area?

2. What factors should be considered in determining the technological feasibility and applicability of control measures in each post-1987 area?

3. Should EPA establish an overall level of emission reduction or air quality improvement for each of the four post-1987 areas in California? If so, how should this be quantified and progress monitored?

4. Should there be emission reduction targets or percent improvements for each main source sector-stationary sources, TCMs, mobile sources, and major source permitting? If so, how could they be established?

5. What factors should be considered in determining implementation of the 1982 SIPs? To what extent should non-implementation of the existing SIP affect an area's participation in REEP, or EPA's imposition of sanctions? What should be EPA's recourse for non-implementation of "voluntary measures" (which are dependent on the public's cooperation) or measures dependent on currently unavailable funding?

6. What factors should be considered in determining the priority of the development and adoption of the individual control measures?

7. In addition to hydrocarbons, or volatile organic compounds (VOCs), nitrogen oxides (NO_x) are a precursor to ozone formation. CARB's analysis of ambient air quality data and emissions suggests that reductions in NO_x emissions would help reduce ozone concentrations in Ventura and the South Coast (especially in areas where ozone levels are the highest). The Ventura County SIP incorporates NO_x controls as necessary for ozone attainment while the South Coast ozone plan assumes a level of NO_x control as part of its ozone control strategy. EPA sees the need to consider NO_x as part of the REEP evaluation for selected areas where (a) studies or modeling analyses show that NO_x control can reduce ambient ozone concentrations, and (b) NO_x controls form a part of the EPA-approved ozone control strategy. To what extent should NO_x controls, combined with further VOC reductions, be required as part of the REEP demonstration in appropriate nonattainment areas?

8. How can future REEP-SIPs (beginning in 1989) be more integrated with ongoing local nonattainment area planning efforts?

9. The 1982 SIPs for the four post-1987 areas in California indicated that attainment of the ozone standard did not appear likely with currently available measures or measures which could be implemented in the next three to five years. What mechanism should EPA use to require and federally enforce commitments, a schedule, and a tracking system to study and develop "longer-term" measures (i.e., measures that will take longer than five years to implement? What resources should EPA employ to ensure that the commitments to evaluate and develop long-term measures are met?

IV. Future Actions

Currently, EPA has no plans to issue a comprehensive section 110(a)(2)(H) SIP call for the four post-1987 nonattainment areas in California. The existing plans for these areas have not yet received full EPA approval under Part D. As a result, each area faces a continuing obligation under the Clean Air Act, even without a SIP call, to submit SIP improvements that will produce progress as expeditiously as practicable toward attainment of the standards. EPA will review comments on today's notice however to assist in its determination of whether future REEP SIPs (beginning in 1989) should be more integrated with the continuing planning process which already exists in certain nonattainment areas. Any final REEP SIP determination for any of the post-1987 areas will be made by EPA based on full analysis of the data, consideration of the local/State public workshop and public hearing record, and any other public comments received on this notice as well as on proposal notices on the REEP SIP itself. Because a final determination of what constitutes reasonable efforts for each post-1987 area will not be made prior to public notice and comment rulemaking on each individual REEP SIP, EPA will continue to schedule discussions with post-1987 area agencies toward the consideration and adoption of the REEP SIP by February 1987.

EPA intends to hold two public meetings in conjunction with today's **Federal Register** notice. The purpose of the meetings is to have a public discussion of the concepts on which the REEP is structured and EPA's plans for its implementation. The meetings will be held in the fall of this year. All known interested groups will be individually notified of the exact time and place of each meeting. Other interested groups may request that EPA also notify them.

As part of EPA's continuing effort to maintain an active, open, and effective dialogue on the REEP, EPA intends to participate in a regular series of public meetings with public interested groups and the private sector.

The comments received as a result of today's notice and its related public meeting will be fully considered by EPA in developing the program policies related to REEP. In order to most effectively administer its mandate under the Clean Air Act to ensure attainment of the CO and ozone NAAQS, EPA intends to continue to work with the affected public to conduct a vigorous post-1987 nonattainment area program, consistent with Part D of the Act.

List of Subjects in 40 CFR Part 51

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Hydrocarbons, Carbon monoxide, Nitrogen oxides.

Dated: September 16, 1986.

Judith E. Ayres,

Regional Administrator.

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