§ 901.16 Removed and [Reserved]

3. The text of § 901.16 is removed and the section and section heading are reserved.

[FR Doc. 97–33335 Filed 12–19–97; 8:45 am]

BILLING CODE 4310–05–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 97–8]

Registration of Claims to Copyright: Group Registration of Serials

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule; technical amendment.

SUMMARY: The Copyright Office is making a technical amendment to one of the addresses designated in the group registration procedures.

EFFECTIVE DATE: December 22, 1997.

FOR FURTHER INFORMATION CONTACT: Kent Dunlap, Principal Legal Advisor to the General Counsel, Copyright GC/I&R P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: In 1990, the Copyright Office adopted a new registration procedure which permitted group registration of serial publications under certain conditions. 55 FR 50556 (1990). This procedure is part of the regulations of the Copyright Office at 37 CFR Chap. II, §§ 202.3(b)(5) and 202.20(c)(2)(xvii). This document amends the address to which the complimentary subscriptions must be mailed.

List of Subjects in 37 CFR Part 202

Claims, Copyright, Registration.

Technical Amendment

In consideration of the foregoing, the Copyright Office is amending part 202 of 37 CFR, chapter II in the manner set forth below.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 202.3 [Amended]

2. Section 202.3(b)(5)(iii) is amended to add ''–4161,'' after ''20540''.

Dated: December 17, 1997.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 97–33313 Filed 12–19–97; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY 26–2–176a; FRL–5936–8]

Determination of Attainment of the One-Hour Ozone Standard for the Poughkeepsie, New York Ozone Nonattainment Area and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is determining, through direct final procedure, that the Poughkeepsie moderate ozone nonattainment area in New York has attained the one-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon three years of complete, quality assured ambient air monitoring data for the years 1995–97. This data demonstrates that the one-hour ozone NAAQS has been attained in this area. On the basis of this determination, EPA is also determining that certain reasonable further progress and attainment demonstration requirements, along with certain other related requirements, of Part D of Title 1 of the Clean Air Act are not applicable to this area.

In the proposed rules section of this **Federal Register**, EPA is proposing this determination and soliciting public comment on it. If adverse comments are received on this direct final rule, EPA will withdraw this final rule and address these comments in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**.

DATES: This action will be effective Febraury 5, 1998 unless adverse or critical comments are received by January 21, 1998. If the effective date is delayed, a timely document will be published in the **Federal Register**.

ADDRESSES: Written comments should be mailed to Ronald Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2, 290 Broadway, New York, NY 10007–1866. Copies of the relevant material for this notice are available for inspection during normal business hours at: Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Robert F. Kelly, Air Programs Branch, Environmental Protection Agency, Region 2, at the above address. Phone: 212–637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

Subpart 2 of Part D of Title I of the Clean Air Act (CAA) contains various air quality planning and state implementation plan (SIP) submission requirements for ozone nonattainment areas. EPA has interpreted provisions regarding reasonable further progress (RFP) and attainment demonstrations, along with certain other related provisions, so as not to require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the one-hour ozone standard (i.e., attainment of the NAAQS is demonstrated with three consecutive years of complete, quality assured air quality monitoring data). As described below, EPA has previously interpreted the general provisions of subpart 1 of part D of Title I (sections 171 and 172) so as not to require the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures. As explained in a memorandum dated May 10, 1995 from John Seitz to the Regional Air Division Directors, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' EPA has interpreted the more specific RFP, attainment demonstration and related provisions of subpart 2 in the same manner.

First, with respect to RFP, section 171(1) states that, for purposes of part D of Title I, RFP ''means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' Thus, whether dealing with the general RFP requirement of section 172(c)(2), or the more specific RFP requirements of subpart 2 for classified ozone nonattainment areas (such as the 15 percent plan requirement of section 182(b)(1)), the stated purpose of RFP is

to ensure attainment by the applicable attainment date.[1] If an area has in fact attained the one-hour standard, the stated purpose of the RFP requirement will have already been fulfilled and EPA does not believe that the area needs to submit revisions providing for the further emission reductions described in the RFP provisions of section 182(b)(1).

EPA notes that it took this view with respect to the general RFP requirement of section 172(c)(2) in the General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498, April 16, 1992), and it is now extending that interpretation to the specific provisions of subpart 2. In the General Preamble, EPA stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, that the ''requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point.'' (57 FR at 13564.)[2]

Second, with respect to the attainment demonstration requirements of section 182(b)(1) an analogous rationale leads to the same result. Section 182(b)(1) requires that the plan provide for ''such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under this Act.'' As with the RFP requirements, if an area has in fact monitored attainment of the one-hour standard, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment of the one-hour standard. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I, as EPA stated there that no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached.'' (57 FR at 13564; *see also* September 1992 Calcagni memorandum at page 6.) Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Similar reasoning applies to the contingency measure requirements of section 172(c)(9). EPA has previously interpreted the contingency measure requirement of section 172(c)(9) as no longer being applicable once an area has attained the one-hour standard since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' (57 FR at 13564; *see also* September 1992 Calcagni memorandum at page 6.) As the section 172(c)(9) contingency measures are linked with the RFP requirements of section 182(b)(1), the requirement no longer applies once an area has attained the one-hour standard.

This action is only a suspension of the requirements to submit the SIP revisions discussed above. If the area were to violate the one-hour ozone NAAQS, the basis for the determination that the area need not make the pertinent SIP revisions would no longer exist. The EPA would notify the state of that determination and would also provide notification to the public in the **Federal Register**. Such a determination would mean that the area would have to address the pertinent SIP requirements within a period of time, which EPA would establish taking into account the individual circumstances surrounding the particular SIP submissions at issue.

However, EPA recently promulgated a new eight-hour ozone standard. The President's Directive of July 16, 1997 outlines how EPA will make the transition from the old one-hour standard to the new SIP requirements for the eight-hour standard. The Directive states that EPA will revoke the one-hour standard once an area has air monitoring data showing attainment of the one-hour standard. If EPA revokes the one-hour standard for an area, the requirement for the area to submit RFP requirements and an attainment demonstration for the one-hour standard will be permanently ended.

The state must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the ozone standard must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in EPA's Aerometric Information Retrieval System (AIRS).

The determination that is being made with this **Federal Register** document that air quality data shows attainment of the one-hour standard is not equivalent to the redesignation of the area to attainment. Using monitoring data to show attainment of the ozone NAAQS is only one of the criteria set forth in section 107(d)(3)(E) that must be satisfied for an area to be redesignated to attainment. To be redesignated the state must submit and receive full approval of a redesignation request for the area that satisfies all of the criteria of that section, including the requirement of a demonstration that the improvement in the area's air quality is due to permanent and enforceable reductions and the requirements that the area have a fully-approved SIP meeting all of the applicable requirements under section 110 and Part D and a fully-approved maintenance plan.

Furthermore, the determination made in this notice does not shield an area from future EPA action. EPA can require emissions reductions from sources in the area where there is evidence, such as photochemical grid modeling, showing that emissions from sources in the area contribute significantly to nonattainment in, or interfere with maintenance by, other nonattainment areas. EPA has authority under section 110(a)(2) to require such emission reductions if necessary and appropriate to deal with transport situations. Also, EPA can require SIPs from this area if EPA or the state proposes, in future actions, that the area is in violation of the eight-hour standard.

II. Analysis of Air Quality Data

On November 17, 1997, New York requested that EPA find that air monitoring data from New York State for the Poughkeepsie ozone nonattainment area shows that the area is attaining the one-hour ozone standard. New York State, also on November 17, 1997, submitted quality assured data (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) through the end of the 1997 ozone season and certified that these data met EPA's requirements. The EPA has reviewed the ambient air monitoring data for ozone from 1995 through 1997 for the Poughkeepsie ozone nonattainment area, which includes Dutchess, Putnam and northern Orange Counties in New York. The data were taken from the

[1] EPA notes that paragraph (1) of subsection 182(b) is entitled ''PLAN PROVISIONS FOR REASONABLE FURTHER PROGRESS'' and that subparagraph (B) of paragraph 182(c)(2) is entitled ''REASONABLE FURTHER PROGRESS DEMONSTRATION,'' thereby making it clear that both the 15 percent plan requirement of section 182(b)(1) and the 3 percent per year requirement of section 182(c)(2) are specific varieties of RFP requirements.

[2] *See also* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, September 4, 1992, at page 6 (stating that the ''requirements for reasonable further progress * * * will not apply for redesignations because they only have meaning for areas not attaining the standard'') (hereinafter referred to as ''September 1992 Calcagni memorandum'').

EPA-approved New York State air quality monitoring network. It should be noted that New York expanded air monitoring in the Poughkeepsie area from one to three monitors during the 1990s. The monitors in these locations were sited to measure ozone concentrations typical of concentrations across the area. New York did this to better define the extent of ozone nonattainment in the area. Expanding the network increased the opportunity for finding violations of the ozone standard in the Poughkeepsie area. EPA believes that these data are representative of the Poughkeepsie ozone nonattainment area. This is especially true since ozone is not emitted directly from sources, but is formed from pollutants that react in sunshine over a period of time. The ozone air quality data for the Poughkeepsie ozone nonattainment area, summarized in Table I, shows that the area has met the one-hour NAAQS.

TABLE I.—EXCEEDANCES OF THE ONE-HOUR OZONE STANDARD FOR MONITORING SITES IN THE POUGHKEEPSIE OZONE NONATTAINMENT AREA

[From EPA AIRS]

Site	Number of exceedances (in parentheses) Number of expected exceedances **in bold**			Total number of expected exceedances 1995–7	Average number of expected exceedances 1995–7	Attainment status 1995–7
	1995	1996	1997			
Millbrook	(0)	(0)	(0)	0.0	0.0	Attain.
	0.0	**0.0**	**0.0**			
Mt. Ninham	(2)	(1)	(0)	3.1	1.0	Attain.
	2.0	**1.1**	**0.0**			
Valley Central	(0)	(1)	(0)	1.0	0.3	Attain.
	0.0	**1.0**	**0.0**			

Note: Expected exceedances are calculated from the actual number of exceedances ( ), adjusted for missing data as required by Appendix H. The 0.12 ppm one-hour average ozone standard is attained when the three year average of expected exceedances is 1.0 or less. The expected and average number of exceedances are rounded to the nearest tenth. [See CFR Part 51, Appendix H.]

As noted in Table I, attainment of the one-hour ozone standard is achieved when an area's monitoring sites have 1.0 or less exceedances per year, averaged over a three year period from 1995 through 1997. Since all of the monitors in the Poughkeepsie ozone nonattainment area average 1.0 or less exceedances per year, the Poughkeepsie area is attaining the one-hour NAAQS for ozone. Attaining the ozone standard would relieve New York from submitting a reasonable further progress plan whose purpose was to bring the area into attainment. Likewise, New York would not have to submit an attainment demonstration since the area has attained the one-hour ozone standard.

III. Final Action

EPA determines that the Poughkeepsie ozone nonattainment area has attained the one-hour ozone standard based on three years of quality-assured monitoring data at all three sites in the area. As a consequence of EPA's determination that the Poughkeepsie area has attained the one-hour ozone standard, the requirements of section 182(b)(1) concerning the submission of the 15 percent plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures shall not be applicable to the area. This is effective as long as the area continues to attain the one-hour ozone standard, or until EPA revokes the one-hour standard.

EPA emphasizes that as long as the one-hour standard applies to the Poughkeepsie area, these determinations are contingent upon the continued monitoring and continued attainment and maintenance of the one-hour ozone NAAQS in this affected area. If while the one-hour standard is still in effect, a violation of the one-hour ozone NAAQS is monitored in the Poughkeepsie area (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS), EPA will provide notice to the public in the **Federal Register**. Then EPA would reinstate the requirements of section 182(b)(1) and section 172(c)(9) for the Poughkeepsie area since the basis for the determination that they are not needed would not exist.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. EPA is strictly acting on the basis of real data, without modification or interpretation that impels EPA to make the determination in this document. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve this action in case adverse or critical comments be filed. This action will be effective February 5, 1998 unless, by January 21, 1998, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective February 5, 1998.

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

IV. Administrative Requirements

Executive Order 12866

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

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify

that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action removes a requirement that the Clean Air Act required the State to address. Therefore, because this action does not impose any new requirements, I certify that it does not have an impact on any small entities.

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this action does not include a federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action imposes no new requirements, and accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 20, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen oxides, Ozone, Volatile organic compounds, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 4, 1997.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart HH—New York

2. Section 52.1683 is amended by adding new paragraph (f) to read as follows:

52.1683 Control strategy: Ozone.

* * * * *

(f) Attainment Determination—EPA has determined that, as of February 5, 1998, the Poughkeepsie ozone nonattainment area (consisting of Dutchess and Putnam Counties and northern Orange County) has air monitoring data that attains the one-hour ozone standard and that the requirements of section 182(b)(1) (reasonable further progress and attainment demonstration) and related requirements of section 172(c)(9) (contingency measures) of the Clean Air Act do not apply to the area.

[FR Doc. 97–33080 Filed 12–19–97; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1110

Nondiscrimination in Federally Assisted Programs; Technical Amendment

AGENCY: National Foundation on the Arts and the Humanities.

ACTION: Final rule; technical amendment.

SUMMARY: This final rule incorporates the new name of the Institute of Museum and Library Services (the ''Institute''), established by the Museum and Library Services Act of 1996, into the regulations promulgated by the National Foundation on the Arts and the Humanities regulations regarding nondiscrimination in federally assisted programs. These regulations implement Title VI of the Civil Rights Act of 1964, thereby prohibiting discrimination on the grounds of race, color, or national origin, in federally funded programs.

DATES: This final rule is effective December 22, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Ann Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20405. Telephone: (202) 606–8536.

SUPPLEMENTARY INFORMATION: The Museum and Library Services Act of 1996, set forth as 20 U.S.C. 961 *et seq.*, expanded the functions of the Institute of Museum Services to create a new agency, The Institute of Museum and Library Services. The Institute, like its sister agencies The National Foundation on the Arts and the Humanities, is a subdivision of the National Foundation on the Arts and the Humanities.

The National Foundation on the Arts and the Humanities regulations governing nondiscrimination in federally assisted programs and implementing Title VI of the Civil Rights Act of 1964, are set forth in 45 CFR Part 1110. This rule conforms these regulations to the Museum and Library Services Act of 1996, by incorporating the new name of the agency into the regulations' provisions.

The National Foundation on the Arts and the Humanities considers this rule to be a technical amendment which is exempt from notice-and-comment under 5 U.S.C. 553(b)(3)(A). This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, The Foundation certifies that these regulatory amendments will not have a significant impact on small business entities.

List of Subjects in 45 CFR Part 1110

Civil rights.

For the reasons stated in the summary and pursuant to 20 U.S.C. 961 *et seq.*, 45 CFR, Chapter XI, Part 1110 is amended as follows: