have been authorized, is subject to disciplinary action or criminal prosecution or both.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–13831 Filed 6–3–96; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA084–4018; FRL–5511–2]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania: Revocation of Determination of Attainment of Ozone Standard by the Pittsburgh-Beaver Valley Ozone Nonattainment Area and Reinstatement of Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is providing notification of its determination that the Pittsburgh-Beaver Valley ozone nonattainment area is no longer attaining the National Ambient Air Quality Standard (NAAQS) for ozone, based on monitored violations of the standard during the 1995 ozone season. EPA is also reinstating the applicability of certain reasonable further progress (RFP) and attainment demonstration requirements, along with certain other requirements, of Part D of Title I of the Clean Air Act for the Pittsburgh-Beaver Valley ozone nonattainment area because the area is no longer in attainment for ozone.

EFFECTIVE DATE: This final rule is effective on August 15, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 566–2181, at the EPA Region III office, or at pino.maria@epamail.epa.gov via e-mail.

SUPPLEMENTARY INFORMATION: In a policy memorandum dated May 10, 1995, from John Seitz, Director, Office of Air Quality Planning and Standards, 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 stated that it is reasonable to interpret provisions regarding reasonable further progress (RFP) and attainment demonstrations, along with certain other related provisions, so as not to require certain SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard.

Based on this memo, on July 19, 1995, EPA published a final determination (60 FR 37015) that the Pittsburgh-Beaver Valley and Reading ozone nonattainment areas had attained the ozone standard and that the SIP requirements for reasonable further progress, (namely the 15% plans and attainment demonstrations required under section 182(b)(1) of the Clean Air Act, and the contingency measures required under section 172(c)(9) of the Clean Air Act) no longer applied so long as these areas did not violate the ozone standard. The notice also stated that the sanctions clocks started on January 18, 1994, for these areas for failure to submit the RFP requirements were halted. The effective date of the final determination occurred one day after the sanction clocks expired and these areas were, in fact, under the offset sanction at the time of EPA's final determination. However, the sanctions were lifted as a result of EPA's final determination for the same reason that the final determination would have halted the sanctions clocks.

EPA has reviewed the 1995 ambient air quality data (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) for the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area), and determined that the area is no longer in attainment. During the 1995 ozone season 17 exceedances of the standard were recorded, and two monitors in the Pittsburgh area recorded violations of the ozone NAAQS. The current design value for the Pittsburgh area, computed using the ozone monitoring data for 1993 through 1995, is 133 parts per billion (ppb). The average annual number of expected exceedances is 8.2 for that same time period. An area is considered in nonattainment when the average annual number of expected exceedances is greater than 1.0. A more detailed summary of the ozone monitoring data for the area is provided in the Technical Support Document for this notice.

Other specific details of the attainment determination revocation and the reinstatement of the 15% plan, attainment demonstration, and contingency measures requirements for the Pittsburgh area, and the rationale for EPA's proposed action are explained in the February 12, 1996 notice of proposed rulemaking (NPR) (61 FR 5360) and will not be restated here. Both positive and adverse public comments were received on the NPR.

During the public comment period EPA received one comment letter in favor of the proposal, and two letters that contained adverse comments. Following meetings with the representatives of the Pennsylvania Department of Environmental Protection, EPA subsequently received another letter from one of the commenters, the Commonwealth of Pennsylvania, setting forth a proposed schedule of milestones for meeting the attainment demonstration requirement. The following is a summary of the adverse comments received on the NPR, and EPA's response to those comments.

Comment #1: The Commonwealth of Pennsylvania opposed EPA's proposed reinstatement of the requirements of sections 182(b)(1) and 172(c)(9) on August 15, 1996. According to the Commonwealth, the August 15, 1996 date did not allow the state enough time to develop and adopt the necessary regulations and make the required submissions. The Commonwealth contended that the August 15, 1996 date was not consistent with EPA's own policy of providing a reasonable time taking into account the pertinent circumstances, did not allow sufficient time for the Southwestern Pennsylvania Ozone Stakeholders process (established by the Commonwealth) to be completed, was inconsistent with the time frame for inspection and maintenance (I/M) program submissions established by the National Highway Systems Designation Act (NHSDA) of 1995, and did not provide sufficient time for the state rulemaking process to occur. Subsequently, following meetings between EPA and the state, in a letter dated May 17, 1996, the Commonwealth proposed a schedule of milestones for submissions from the Commonwealth to EPA to comply with the attainment demonstration requirement for the Pittsburgh area. That schedule includes milestone dates beginning on August 15, 1996, and ending on December 31, 1997.

Response: First, with respect to the proposed August 15, 1996 date for the reinstatement of the 15% plan and section 172(c)(9) contingency measures

requirements, for the reasons stated in the proposal EPA continues to believe that date is reasonable and provides the state with an adequate time to prepare and adopt a SIP revision to comply with those requirements. The reasonableness of that date is conclusively demonstrated by the fact that the Commonwealth submitted to EPA a 15% plan, and the contingency measures for the Pittsburgh area, as a SIP revision, on March 22, 1996. EPA notes that this submittal also demonstrates that there is no inconsistency between the submittal date for an interim I/M program under the NHSDA provisions (March 27, 1996), and the August 15, 1996 date for the reinstatement of the requirements as the state is relying in its 15% plan on such an I/M program, which it submitted to EPA on March 22, 1996. EPA worked with the Commonwealth to develop this 15% plan, and provided comments on the plan for the public record. Therefore, EPA is adopting in this final action the proposed August 15, 1996 date for the reinstatement of the 15% plan and contingency measures requirements.

Second, with respect to the date for the reinstatement of the attainment demonstration requirement of section 182(b)(1)(A) of the CAA, EPA believes that the comments received indicate that it is appropriate for EPA to modify its proposal to allow additional time for the submission of all of the aspects or elements of an attainment demonstration. EPA believes that there is a range of time periods that would satisfy the criteria of the May 10, 1995 policy regarding a reasonable time for the reinstatement of the suspended requirements and that it is also permissible to establish a schedule of milestones requiring the submission of various elements of an attainment demonstration culminating with the submission of fully-adopted, enforceable regulations necessary to implement control measures necessary to attain the ozone standard. While EPA does not agree with all of the comments made by the Commonwealth, EPA believes that the schedule proposed by the Commonwealth in the letter of May 17, 1996 is a reasonable one in light of the particular circumstances pertinent to the submission of an attainment demonstration for the Pittsburgh-Beaver Valley ozone nonattainment area.

Under that schedule, the attainment demonstration would be split into a number of elements, the first being due to be submitted to EPA on August 15, 1996, EPA's original proposed date for the reinstatement of the attainment demonstration requirement. That first element, the photochemical oxidant modeling demonstration that identifies VOC and NO_X reduction levels necessary for attainment of the ozone NAAQS in the area and a list of available control strategies, is the necessary first step in the process of putting together a complete attainment demonstration for the Pittsburgh area. EPA believes that the August 15, 1996 date is a reasonable date for this first element as it will provide adequate time for the completion of the modeling efforts but ensure that the Commonwealth is moving forward expeditiously towards the submission of a full attainment demonstration.

Under the schedule, the second element, an official SIP revision (for which the Commonwealth has completed the public notice and hearing process) containing a photochemical oxidant modeling demonstration and a list of available control strategies must be submitted by the Commonwealth to EPA by October 1, 1996. This will provide an adequate opportunity for public input on these matters through a notice and comment process at the state level and through the Southwestern Pennsylvania Ozone Stakeholders process established by the state for addressing Pittsburgh's ozone problems, while still ensuring that these issues will be addressed in an expeditious manner.

The third element under the schedule is a SIP submission from the Commonwealth to EPA that must be made by April 1, 1997. This submission must consist of any emission reduction strategies selected by the Commonwealth for the Pittsburgh area for which new regulations are not required and an enforceable commitment, which has undergone public notice and hearing, to submit to EPA by December 31, 1997, as final, fully-adopted and enforceable regulations any emission reduction strategies selected by the Commonwealth for the Pittsburgh area for which new regulations are required. This will ensure that any selected strategies that do not require new regulations are submitted to EPA prior to the 1997 ozone season for incorporation in the SIP and that any selected strategies for which new regulations are required will be submitted in an expeditious time frame, but one that will provide necessary additional time for state rulemaking activities. Submission of those regulations by December 31, 1997, should provide adequate lead time for the implementation of such regulations and EPA action regarding those regulations prior to the 1998 ozone season.

The final element under the schedule is the December 31, 1997 date for the submission of final, fully-adopted and enforceable regulations to implement all selected control strategies for which new regulations are necessary.

EPA believes that this schedule represents a reasonable accommodation between the need for expeditious compliance with the reinstated attainment demonstration requirement and the time for the state regulatory process, the technical work regarding the underlying modeling, and allowing for public input regarding these efforts through the state notice and comment process and the Commonwealth's stakeholder process, which is scheduled for completion by the end of 1996. EPA notes, however, that the obligations regarding submittals to EPA established under this milestone schedule exist regardless of the outcome of the stakeholder process.

EPA rejects the contention of the commenter that the dates for the reinstatement of the suspended requirements were based on a commitment to establish such dates in a settlement agreement to settle pending litigation. No settlement agreement regarding the proposed dates had been entered into at the time of the proposal and the fact that EPA is establishing the dates in this final action based on a careful evaluation of all circumstances and comments on the proposal, including the Commonwealth's letter of May 17, 1996, demonstrates that EPA had not committed itself to the August 15, 1996 date at the time of the proposal.

The sanctions consequences of this schedule are discussed below in the CONCLUSIONS section of this notice.

Comment #2: ''Transport of ozone from outside Pennsylvania into the Pittsburgh-Beaver Valley area was not considered.''

Response: While Pennsylvania has made great strides in improving the air quality in the Pittsburgh area, ozone remains a problem. EPA believes that the Pittsburgh area generates substantial emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_X), which contribute significantly to the nonattainment problem there. This was demonstrated in 1995, when exceedances were recorded in Pittsburgh, and ozone concentrations at the border and in all other western and central Pennsylvania areas were below the standard. The Commonwealth has performed no modeling analyses to demonstrate that the ozone problem in the Pittsburgh area

is caused by transport from upwind sources. An adequate technical demonstration, including emissions data and a modeling analysis, must be provided to support any claim of transport-dominated nonattainment.

Comment #3: ''The 1995 ozone season data was not officially submitted to EPA until November 1995.''

Response: While the Commonwealth did not officially submit the data to EPA until November 1995, the Commonwealth was aware of the violations much sooner. Although the data had to go through official quality assurance procedures, the Commonwealth had a strong indication that the area had violated the ozone NAAQS before November 1995. In fact, in an October 11, 1995 letter to EPA, Governor Ridge acknowledged the violations of the ozone NAAQS that occurred in the Pittsburgh area during the summer of 1995.

Comment #4: ''The 1995 ozone season area data was unexpected and unusual in comparison to recent data.''

Response: As shown in the tables below, the area was not without exceedances in recent years. From 1987 to 1995, the number of exceedances varied from year to year with no discernable pattern. This variation is due to year-to-year variations in emissions and meteorological conditions.

PITTSBURGH AREA: NUMBER OF OZONE EXCEEDANCES: 1987–1995

1987	1988	1989	1990	1991	1992	1993	1994	1995
10	41	5	0	2	0	1	4	17

Because the area has not adequately reduced its VOC and NO_X emissions, it is subject to ozone exceedances whenever meteorological conditions are conducive to ozone formation. One of the goals of the Clean Air Act is to minimize the health risks that people encounter. Since meteorological conditions cannot be controlled, the way to reduce health risks due to ozone in the Pittsburgh area is to reduce the anthropogenic emissions of VOC and NO_X, both of which are considered precursor pollutants. Furthermore, many VOCs are listed as hazardous air pollutants under section 112 of the Clean Air Act, and nitrogen dioxide (NO_2) is individually regulated by EPA because of its health and welfare effects. As a result, the reduction of VOC and NO_X emissions will reduce the health risks that are associated with exposure to VOC and NO_X, as well as reducing the health risks due to elevated ozone levels.

Finally, the comment letter referred to comments that this same commenter made on another, related action, EPA's February 7, 1996 proposed disapproval of Pennsylvania's ozone redesignation request for the Pittsburgh area (61 FR 4598). On May 1, 1996, EPA responded to those comments in the final rule disapproving Pennsylvania's redesignation request for the Pittsburgh area (61 FR 19193). Those comments and EPA's responses will not be restated here but are incorporated by reference to the extent relevant to this action.

The second commenter's position is that EPA's July 19, 1995 waiver of the 15% plan and attainment demonstration requirements for the Pittsburgh area was unlawful because it relieved moderate ozone nonattainment areas from requirements established for those areas in sections 172, 176, 179, 181, and 182 of the Clean Air Act.

Comment #1: ''An area cannot be removed from nonattainment status except by the redesignation process under section 107(d)(3), which provides that the redesignation cannot occur unless the area not only attained the standard but also met several other prerequisites. Because the July 19 decision did not purport to find—and had no basis for finding—that these other prerequisites had been met, and did not purport to relieve the Pittsburgh-Beaver Valley area of its nonattainment status, that decision could not lawfully exempt the area from the requirements imposed by sections 172, 176, 179, 181, and 182.''

Response: The rationale and justification for EPA's July 19, 1995 action were thoroughly explained in that rulemaking and EPA incorporates by reference the explanations provided therein as to the lawfulness of EPA's action. EPA also incorporates by reference the discussions of the rationales and bases for such actions contained in other notices regarding similar actions taken with respect to other ozone nonattainment areas—Salt Lake City, Utah (60 FR 36723, July 18, 1995), Muskegon and Grand Rapids, Michigan (60 FR 37366, July 20, 1995), and Cleveland, Ohio (61 FR 20458, May 7, 1996). EPA also notes that it disapproved the Commonwealth's November 13, 1993 redesignation request for the Pittsburgh area on May 1, 1996 (61 FR 19193), and that the issue of whether the July 19, 1995 action had any impact on EPA's evaluation of the redesignation request has now been rendered moot.

Comment #2: The proposal ''makes no mention of either the conformity requirements of section 176(c) or the federal implementation plan requirements of section 110(c).'' The same ozone NAAQS violations that compel reimposition of the section 182(b)(1) and 172(c)(9) requirements also compel imposition of the conformity and federal implementation plan (FIP) requirements as well—and on the same schedule.

Response: With respect to the conformity requirements, EPA believes that they are not affected by this action. Rather, the conformity requirements are as they were explained in the May 1, 1996 disapproval of the Pittsburgh redesignation request and maintenance plan (61 FR 19193): ''When the final disapproval of the maintenance plan is effective, the Pittsburgh area will no longer be able to demonstrate conformity to the submitted maintenance plan pursuant to the transportation conformity requirements in 40 CFR 93.128(I). Since the submitted maintenance plan budget will no longer apply for transportation conformity purposes, the build/no-build and less-than-90 tests will apply pursuant to 40 CFR 93.122. In addition, the Commonwealth submitted a 15% rate-of-progress plan (15% plan) on March 22, 1996. Ninety days after this submittal date, the emissions budget contained in this 15% plan will apply for conformity purposes pursuant to 40 CFR 93.118 and 93.128(a)(1)(ii), as well as the build/no-build test under 40 CFR 93.122.''

With respect to the FIP clock, EPA believes that the FIP clock is analogous to the sanctions clock and, therefore, would be reinstated in the same manner as the sanctions clock. Thus, the FIP clock, like the sanctions clock, would resume as to the particular submission at issue, with one day less than six months to run (the amount of time left on the FIP clock at the time of the July 19, 1995 determination of attainment).

For example, with respect to the 15% plan and contingency measure requirements that are being reinstated as of August 15, 1996, the FIP clock would

be reinstated at that time, with one day less than six months to run. With respect to the elements of the attainment demonstration, the FIP clock would resume as to each element two weeks after the due date for each element (the date on which the sanctions would be reinstated if the submission were not made), with one day less than six months to run.

Comment #3: Since it is the commenter's position that the requirements never ceased being applicable, the commenter agreed that August 15, 1996 is ''a more than reasonable time from the Commonwealth to meet those requirements.'' The commenter also stated that, ''Further delay in these already long-overdue public health measures must not be tolerated.''

Response: As stated above, EPA believed that August 15, 1996 provided the Commonwealth with a reasonable amount of time to develop and submit a 15% plan, contingency measures, and an attainment demonstration. However, for the reasons set out in this notice, EPA believes that, considering the Commonwealth's particular circumstances (including its regulatory adoption process and the Southwestern Pennsylvania Ozone Stakeholders process) the Commonwealth needs time beyond August 15, 1996 to complete an attainment demonstration for the Pittsburgh area.

Conclusions

EPA has considered all the comments received, and is committed to working with the Commonwealth to resolve the Pittsburgh area's ozone problem. Towards that end, EPA is a member of the Southwestern Pennsylvania Ozone Stakeholders Group and is participating in the Stakeholders process to help identify appropriate control measures, agreeable to all affected parties, that will bring the area into attainment for ozone as quickly as possible, without causing an undue economic burden to the citizens of the area.

Furthermore, EPA still believes that the August 15, 1996 date provides the Commonwealth a reasonable amount of time to develop a 15% plan and the contingency measures. As noted above, the Commonwealth submitted to EPA a 15% plan, and the contingency measures, as an official SIP revision on March 22, 1996. EPA worked with the Commonwealth to develop this 15% plan and the contingency measures, and provided comments on the plan for the public record.

Taking the individual circumstances the Commonwealth faces in addressing its outstanding SIP requirements, including the Commonwealth's rule adoption process and the Southwestern Pennsylvania Ozone Stakeholders process, EPA has determined that it is reasonable to allow more time than proposed for the submission of a full attainment demonstration SIP.

EPA is still revoking the attainment determination for the Pittsburgh area, and reinstating the RFP and attainment demonstration requirements as of the effective date of this action. However, in lieu of requiring the Commonwealth to submit the attainment determination for the Pittsburgh area as a formal SIP revision by August 15, 1996, EPA is establishing the following milestones.

(1) By August 15, 1996, the Commonwealth must submit to EPA, and make available for public comment as a proposed SIP submission, complete photochemical oxidant modeling for the Pittsburgh area which identifies the VOC and NOx reductions levels necessary for attainment, and a list of available control strategies.

(2) By October 1, 1996, the Commonwealth must submit to EPA a SIP revision containing a photochemical oxidant modeling demonstration and a list of available control strategies.

(3) By April 1, 1997, the Commonwealth must submit to EPA a full SIP revision for those emission reduction strategies selected by the Commonwealth for the Pittsburgh area for which new regulations are not required.

(4) By April 1, 1997, the Commonwealth must submit to EPA a committal SIP revision for those emission reduction strategies selected by the Commonwealth for the Pittsburgh area that require new regulations.

(5) By December 31, 1997, the Commonwealth must submit to EPA as a SIP revision adopted final fully enforceable regulations encompassing the emission reduction strategies contained in the committal SIP.

Unless the Commonwealth makes the required submittal to EPA, the sanctions and sanction clocks halted by the July 19, 1995 action suspending the attainment demonstration requirements at issue will be reinstated, as to each of the submittals included in this milestone schedule, two weeks after the date set for each of the submittals by the Commonwealth to EPA. If the Commonwealth fails to make a submission by the required date, the offset sanction would go back into effect two weeks after the relevant milestone date, and the highway sanction clock would be reinstated at that time where it was halted on July 19, 1995 (i.e., with approximately 6 months remaining). Sanctions or sanctions clocks would be stopped if the Commonwealth makes the relevant overdue submittal, if EPA affirmatively determines that the actual material submitted by the Commonwealth contains the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the pertinent milestone requirement. This determination would not be a determination regarding the merits of the submission, but only a determination as to whether it contains the necessary elements for EPA to proceed to evaluate its merits. EPA shall make the determination as to whether the submittal contains the necessary information within two weeks of the actual submission date by the Commonwealth. EPA's determination will be issued, in writing, in a letter to the Secretary of the Pennsylvania Department of Environmental Protection and will be publicly available.

In the event the Commonwealth makes a required submittal by the pertinent milestone date, EPA shall, within two weeks of the milestone date, make a determination, in writing, as to whether the actual material submitted by the Commonwealth contains the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the pertinent milestone requirement. If EPA determines that the material submitted to EPA by the Commonwealth fails to satisfy this minimum criterion, the offset sanction would be reinstated upon that determination by EPA and the highway sanction clock would be reinstated at that time where it was halted on July 19, 1995 (i.e., with approximately 6 months remaining). Sanctions or sanctions clocks would be stopped if the Commonwealth subsequently makes a submittal to cure the deficiencies identified by EPA, and if EPA affirmatively determines in writing that the material submitted by the Commonwealth cures the identified deficiencies. Again, EPA shall make the determination as to the adequacy of the submittal within two weeks of the date of the actual submittal to EPA. Each of the determinations referenced in this paragraph will be made, in writing, in a letter to the Secretary of the Pennsylvania Department of Environmental Protection and made publicly available.

In those instances where EPA determines that the Commonwealth's submittal does not contain the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the pertinent milestone

requirement, EPA's letter so informing the Commonwealth will articulate the basis for EPA's determination, specify the remedy, and identify the actions necessary by the Commonwealth to remedy its submission to satisfy the relevant milestone.

Although this departs from the normal approach to the cessation of a sanctions clock or the lifting of sanctions that have already been imposed, EPA believes that the above-described approach is justified in the present unique circumstances. With this action, EPA is establishing a new submission schedule for requirements that had been suspended by the July 19, 1995 action taken pursuant to the May 10, 1995 policy. Thus, in this case, the underlying requirements that had led to the starting of sanctions clocks and the actual imposition of offset sanctions for one day have been suspended since July 19, 1995. EPA believes it is appropriate and justifiable to establish the previously-described mechanism in the context of carrying out the terms of the July 19, 1995 action in the event of a revocation of that determination of attainment due to subsequent violations, and the establishment of a milestone schedule that provides the state with a reasonable time to comply with the reinstated requirements through the submission of individual elements of those requirements over a period of time. That mechanism provides that in the case where the Commonwealth makes a submission to comply with the schedule herein established, sanctions and sanctions clocks would not be reinstated unless EPA determines that the submission was deficient following the process that was described previously.

To ensure that such determinations are made by EPA expeditiously, EPA is taking the unusual step of committing to make such determinations within two weeks of a submission from the Commonwealth. This will assure that sanctions are not either delayed or prolonged due to inaction on the part of EPA. Thus, EPA has also committed to act within two weeks on a submission from the Commonwealth made to cure a previously-identified deficiency. This will assure that sanctions and sanctions clocks reinstated due to an identified deficiency in a submission will be turned off expeditiously in the event the Commonwealth cures that deficiency. EPA views these commitments to act within two weeks, to determine whether a submission contains the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the milestone requirements, as establishing an enforceable commitment or duty to make those determinations. As noted earlier, these determinations are not determinations on the merits of the individual submissions, but are only determinations regarding whether the contents of the submission are adequate for EPA to evaluate the merits of the submission. EPA also emphasizes that, in the event the Commonwealth makes no submission at all by the milestone date in the schedule, sanctions and sanctions clocks would be reinstated automatically, without further action on the part of EPA and would only be stopped upon an affirmative determination by EPA regarding the adequacy of the submission.

As stated previously, in those instances where EPA determines that the Commonwealth's submittal does not contain the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the pertinent milestone requirement, EPA's letter so informing the Commonwealth will articulate the basis for EPA's determination, specify the remedy, and identify the actions necessary by the Commonwealth to remedy its submission to satisfy the relevant milestone.

EPA believes that these commitments are warranted under the special circumstances presented by this situation, including the establishment by EPA of a phased schedule for the submission of specified elements of a full attainment demonstration upon the revocation of a determination of attainment that had suspended the underlying requirements and the fact that the Commonwealth has publicly committed to support this schedule in a letter to the rulemaking docket. EPA also notes that due to the fact that the offset sanctions had already been imposed in July of 1995, there is no safety margin upon the reinstatement of the suspended requirements, i.e., the sanction would be immediately reimposed upon the reinstatement of the requirements. Thus, EPA believes it is justifiable for it to establish a mechanism that, in the event the Commonwealth makes a submission to comply with the milestone schedule, will require EPA to act in an expeditious manner before the sanctions would be reinstated.

With respect to the FIP clock, EPA believes that the FIP clock is analogous to the sanctions clock and, therefore, would be reinstated in the same manner as the sanctions clock. Thus, the FIP clock, like the sanctions clock, would resume as to the particular submission at issue with one day less than six months to run (the amount of time left on the FIP clock at the time of the July 19, 1995 determination of attainment).

Final Action

Due to the monitored violations of the ozone standard, EPA has determined that the air quality in the Pittsburgh-Beaver Valley moderate ozone nonattainment area is no longer attaining the ozone standard. As a consequence, EPA is reinstating the requirements of section 182(b)(1) concerning the submission of the 15% RFP plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures. In order to provide a reasonable time for the Commonwealth to develop and submit these SIP elements, EPA is revoking the determination of attainment and reinstating these SIP requirements, effective beginning August 15, 1996.

EPA believes that, under the circumstances presented here, setting an effective date of August 15, 1996 would provide the Commonwealth a reasonable amount of time to submit a 15% plan and related contingency measures. The Commonwealth submitted a 15% plan, and the contingency measures, on March 22, 1996.

Furthermore, for the reasons set forth above, the following schedule is reasonable for the development and adoption of an attainment demonstration.

(1) By August 15, 1996, the Commonwealth must submit to EPA, and make available for public comment as a proposed SIP submission, complete photochemical oxidant modeling for the Pittsburgh area which identifies the VOC and NO_x reductions levels necessary for attainment, and a list of available control strategies.

(2) By October 1, 1996, the Commonwealth must submit to EPA a SIP revision containing a photochemical oxidant modeling demonstration and a list of available control strategies.

(3) By April 1, 1997, the Commonwealth must submit to EPA a full SIP revision for those emission reduction strategies selected by the Commonwealth for the Pittsburgh area for which new regulations are not required.

(4) By April 1, 1997, the Commonwealth must submit to EPA a committal SIP revision for those emission reduction strategies selected by the Commonwealth for the Pittsburgh area that require new regulations.

(5) By December 31, 1997, the Commonwealth must submit to EPA as a SIP revision adopted final fully enforceable regulations encompassing

the emission reduction strategies contained in the committal SIP.

Sanctions, sanction clocks, and FIP clocks will be reinstated as discussed in this notice.

EPA's July 19, 1995, final determination put the Commonwealth on notice that these requirements would be reinstated if a violation occurred. Since the Commonwealth has been aware of the violations and their consequences since last summer, EPA believes that this schedule constitutes sufficient time for the Commonwealth to prepare to meet the reactivated requirements. Sanctions will not be imposed if the Commonwealth submits an attainment demonstration for the Pittsburgh-Beaver Valley nonattainment area that EPA does not find deficient in accordance with the schedule and process set out above. As discussed above, the situation as to conformity is not changed by this rulemaking action and is as it was explained in the May 1, 1995 final action disapproving the redesignation request for the Pittsburgh-Beaver Valley ozone nonattainment area.

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 costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action reinstates temporarily suspended requirements in accordance with the terms of the July 19, 1995 action that suspended them. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

As described in the NPR, EPA has determined that this action will not affect a substantial number of small entities. EPA's action does not create any new requirements but reinstates previously applicable requirements that had temporarily been suspended.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action regarding the Pittsburgh-Beaver Valley ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by (Insert date 60 days from date of publication). 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 21, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

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 NN—Pennsylvania

2. Section 52.2037 is amended by revising paragraph (b)(1) to read as follows:

§ 52.2037 Control Strategy: Carbon Monoxide and Ozone .

* * * * *

(b)(1)(i) Determination—EPA has made a determination, effective August 15, 1996, that the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area) is no longer in attainment of the National Ambient Air Quality Standard for ozone due to monitored violations of the standard. Therefore, effective August 15, 1996, EPA is revoking the determination of attainment for the area made July 19, 1995, and is reinstating the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and contingency measure requirements of section 172(c)(9) of the Clean Air Act beginning on August 15, 1996. With regard to the attainment demonstration requirements, EPA has determined that the following schedule is reasonable for the development, adoption, and submittal of an attainment demonstration by the Commonwealth of Pennsylvania (the Commonwealth).

(A) By August 15, 1996, the Commonwealth must submit to EPA, and make available for public comment as a proposed SIP submission, complete photochemical oxidant modeling for the Pittsburgh area which identifies the VOC and NO_X reductions levels necessary for attainment, and a list of available control strategies.

(B) By October 1, 1996, the Commonwealth must submit to EPA a SIP revision containing a photochemical oxidant modeling demonstration and a list of available control strategies.

(C) By April 1, 1997, the Commonwealth must submit to EPA a full SIP revision for those emission reduction strategies selected by the Commonwealth for the Pittsburgh area for which new regulations are not required.

(D) By April 1, 1997, the Commonwealth must submit to EPA a committal SIP revision for those emission reduction strategies selected by the Commonwealth for the Pittsburgh area that require new regulations.

(E) By December 31, 1997, the Commonwealth must submit to EPA as a SIP revision adopted final fully enforceable regulations encompassing the emission reduction strategies contained in the committal SIP.

(ii) Unless the Commonwealth makes the required submittal to EPA, the sanctions and sanction clocks halted by the July 19, 1995 action suspending the attainment demonstration requirements at issue will be reinstated, as to each of the submittals included in this milestone schedule, two weeks after the date set for each of the submittals by the Commonwealth to EPA. If the Commonwealth fails to make a submission by the required date, the offset sanction would go back into effect two weeks after the relevant milestone date, and the highway sanction clock would be reinstated at that time where it was halted on July 19, 1995 (i.e., with approximately 6 months remaining). Sanctions or sanctions clocks would be stopped if the Commonwealth makes

the relevant overdue submittal, if EPA affirmatively determines in writing that the actual material submitted by the Commonwealth contains the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the pertinent milestone requirement. EPA shall make the determination, in writing, as to whether the submittal contains the necessary information within two weeks of the actual submission date by the Commonwealth. In the event the Commonwealth makes a required submittal by the pertinent milestone date, EPA shall, within two weeks of the milestone date, make a determination, in writing, as to whether the actual material submitted by the Commonwealth contains the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the pertinent milestone requirement. If EPA determines that the material submitted to EPA by the Commonwealth fails to satisfy this minimum criterion, the offset sanction would be reinstated upon that determination by EPA and the highway sanction clock would be reinstated at that time where it was halted on July 19, 1995 (i.e., with approximately 6 months remaining). Sanctions or sanctions clocks would be stopped if the Commonwealth subsequently makes a submittal to cure the deficiencies identified by EPA, and if EPA affirmatively determines in writing that the material submitted by the Commonwealth cures the identified deficiencies. EPA shall make the determination as to the adequacy of the submittal within two weeks of the date of the actual submittal to EPA. Each of the determinations referred to in this subparagraph shall be made in writing, in a letter to the Secretary of the Pennsylvania Department of Environmental Protection and made publicly available. In those instances where EPA determines that the Commonwealth's submittal does not contain the information necessary to enable EPA to determine whether the Commonwealth's submission complies with the pertinent milestone requirement, EPA's letter so informing the Commonwealth will articulate the basis for EPA's determination, specify the remedy, and identify the actions necessary by the Commonwealth to remedy its submission to satisfy the relevant milestone. With respect to the 15 percent plan and contingency measure requirements that are being reinstated as of August 15, 1996, the FIP clock will be reinstated at that time, with one day less than six months to run. With respect to the elements of the attainment demonstration, the FIP clock will resume as to each element (the date on which the sanctions would be reinstated if the submissions were not made), with one day less than six months to run.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7642]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Acting Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.