

the passenger terminal in the following situations:

a. When there is an agreement with the owner or operator of the passenger vessel that the owner or operator of the terminal will submit the required security plan.

b. When the terminal is multi-user or used by more than one cruise line, and baggage and/or stores are loaded or offloaded, and no security agreement exists

Dated: September 24, 1996.

G.N. Naccara,

*Captain, U.S. Coast Guard, Acting Chief,  
Marine Safety and Environmental Protection.*  
[FR Doc. 96-25150 Filed 10-2-96; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 091-4029a; FRL-5613-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Interim Final Determination of the Pennsylvania Enhanced I/M SIP Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** Elsewhere in today's Federal Register, EPA has published a rulemaking notice proposing conditional interim approval of the Commonwealth of Pennsylvania's enhanced motor vehicle inspection and maintenance (I/M) program under Section 348 of the National Highway System Designation Act of 1995 (NHSDA) and Section 110 of the Clean Air Act (CAA). Based on the proposed conditional interim approval, EPA is making an interim final determination by this action that the Commonwealth has corrected the deficiency prompting the original disapproval of the Pennsylvania enhanced I/M SIP revision. This action will defer the application of the offset sanction which would have been implemented on October 13, 1996 and defers the future application of the highway sanction. Although this action is effective upon publication, EPA will take comment on this interim final determination as well as EPA's proposed conditional interim approval of the Commonwealth's submittal. EPA will publish a final rule taking into consideration any comments received on EPA's proposed action and this interim final action.

**DATES:** This interim rule is effective on October 3, 1996.

Comments must be received by November 4, 1996.

**ADDRESSES:** Comments should be sent to Marcia L. Spink, Associate Director, Air Programs, (3AT00), Air, Radiation and Toxics Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19103. The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn (215) 566-2176, at the EPA Region III address above or via e-mail at [bunker.kelly@epamail.epa.gov](mailto:bunker.kelly@epamail.epa.gov). While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In an April 13, 1995 letter EPA notified Pennsylvania that the conditional approval of the Pennsylvania enhanced I/M SIP revision had been converted to a disapproval (60 FR 47084). The letter triggered the 18 month time clock for the mandatory application of sanctions under section 179(a) of the CAA. This 18 month sanction clock will expire on October 13, 1996 at which time 2:1 offset sanctions would be automatically imposed to new or modified sources seeking permits under section 173 of the CAA.

On March 22, 1996, the Commonwealth of Pennsylvania submitted an enhanced I/M SIP revision to EPA, requesting action under the NHSDA of 1995 and the CAA. On June 27, 1996 and July 29, 1996, supplements to the March 22, 1996 SIP revision were officially submitted to EPA. In the Proposed Rules section of today's Federal Register, EPA has proposed conditional interim approval of the Pennsylvania enhanced I/M program. EPA had determined that it is more likely than not that the March 22, 1996 enhanced I/M SIP revision, as supplemented (hereinafter, the "March 22, 1996 I/M SIP revision"), has cured the SIP deficiency triggering the sanctions clock for the duration of EPA's rulemaking process on this I/M SIP revision. This interim determination will not stop the sanctions clock but will defer the implementation of sanctions until either the conditional interim approval is converted to a disapproval, the interim approval lapses, the full SIP is approved or the full SIP is disapproved.

Today EPA is also providing the public with an opportunity to comment on this interim final determination. If, based on any comments on this action and any comments on EPA's proposed conditional interim approval of the March 22, 1996 I/M SIP revision, EPA determines that the March 22, 1996 I/M SIP revision is not approvable and this final action was inappropriate, EPA will take further action to disapprove the March 22, 1996 I/M SIP revision. If EPA's proposed conditional interim approval of the Pennsylvania I/M SIP revision is reversed, then sanctions would be applied as required under Section 179(a) of the CAA and 40 CFR Section 52.31.

##### II. EPA Action

Based on the proposed conditional interim approval set forth in today's Federal Register, EPA believes that it is more likely than not that the Commonwealth has corrected the deficiency that prompted the original disapproval of the Pennsylvania enhanced I/M SIP for which the April 13, 1995 finding of failure to submit was issued.

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

##### III. Administrative Requirements

Because EPA has preliminarily determined that the March 22, 1996 Pennsylvania I/M SIP revision is conditionally approvable, relief from future sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.<sup>1</sup> 5 U.S.C. 553(b)(B). The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the March 22, 1996 I/M SIP revision and, through its proposed interim action, is indicating that it is more likely than not that the Commonwealth has corrected the disapproval that started the sanctions clock. Therefore, it is not in the public interest to initially apply sanctions

<sup>1</sup> As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

when the Commonwealth has most likely corrected the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the Commonwealth has corrected the deficiency prior to the rulemaking approving the March 22, 1996 I/M SIP revision. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while EPA completes its rulemaking process on the approvability of the March 22, 1996 I/M SIP revision. In addition, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

#### *Executive Order 12866*

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.

#### *Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, (RFA) 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact on small entities of any rule subject to prior notice and comment rulemaking requirements. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic 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.

Because this action is not subject to prior notice and comment requirements (see above), it is not subject to RFA. In any even, today's action temporarily relieves sources of an additional burden potentially placed on them by the sanction provisions of the Act. Therefore, the action will not have a significant impact on a substantial number of 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 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 the approval action proposed/promulgated 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 imposes no new Federal requirements. 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 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 interim final determination regarding the Pennsylvania I/M SIP is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *List of Subjects in 40 CFR Part 52*

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 12, 1996.

William T. Wisniewski,

*Acting Regional Administrator, Region III.*

[FR Doc. 96-25396 Filed 10-2-96; 8:45 am]

BILLING CODE 6560-50-P

#### **40 CFR Part 52**

**[AZ033-0007 FRL-5628-6]**

#### **Approval and Promulgation of Implementation Plans; Arizona—Maricopa Nonattainment Area; Carbon Monoxide**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving contingency measures adopted pursuant to the Clean

Air Act (CAA) and submitted to EPA by the State of Arizona as revisions to the Arizona State Implementation Plan (SIP) for the Maricopa (Phoenix) carbon monoxide (CO) nonattainment area. Based on the approval of these measures, EPA is withdrawing its federal contingency process for the Maricopa area and its proposed list of highway projects subject to delay.

**EFFECTIVE DATE:** December 2, 1996.

#### **FOR FURTHER INFORMATION CONTACT:**

Frances Wicher, A-2-1, Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1248.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

##### **A. Federal Contingency Process**

On February 11, 1991, EPA disapproved elements of the Arizona CO SIP and promulgated a limited federal implementation plan (FIP) for the Maricopa County (Phoenix) CO nonattainment area in response to an order of the Ninth Circuit Court of Appeals in *Delaney v. EPA*, 898 F.2d 687 (9th Cir. 1990).<sup>1</sup> For a discussion of *Delaney*, the SIP disapproval, and the FIP, see the notice of proposed rulemaking (NPRM) for the FIP, 55 FR 41204 (October 10, 1990) and the notice of final rulemaking (NFRM) for the FIP, 56 FR 5458 (February 11, 1991).

As required by the *Delaney* order, the FIP contained a two-part contingency process consistent with the Agency's 1982 ozone and CO SIP guidance regarding contingency procedures.<sup>2</sup> These two parts were a list of transportation projects that would be delayed while an inadequate plan was being revised and a procedure to adopt measures to compensate for unanticipated emission reduction shortfalls. The FIP contingency process is described in detail at 56 FR 5458, 5470-5472.

Implementation of the FIP contingency process was triggered by violations of the CO standard in Phoenix in December 1992. On June 28, 1993 (58 FR 5458), EPA published a notice of proposed rulemaking proposing to find that the implementation plan was inadequate

<sup>1</sup> While the FIP was promulgated after the enactment of the 1990 Clean Air Act Amendments, it was designed, pursuant to the *Delaney* Court's order, to comply with the CAA and EPA guidance as they existed prior to the 1990 Amendments.

<sup>2</sup> "State Implementation Plans; Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension. Final Policy." 46 FR 7182 at 7187, 7192 (January 22, 1981) (hereafter referred to as "1982 guidance").