

On March 29, 1995, proposed regulations implementing Executive Order 12954 were published in the Federal Register (60 FR 16354). A final rule was issued on May 25, 1995 (60 FR 27856).

On February 2, 1996, the Court of Appeals for the District of Columbia Circuit issued a decision voiding Executive Order 12954, *Chamber of Commerce of the United States, et al. v. Reich*, 74 F.3d 1322 (D.C. Cir. 1996). A rehearing was denied on May 10, 1996, 83 F.3d 442 (D.C. Cir. 1996). A petition for review on writ of certiorari was not filed with the Supreme Court. Consequently, the Department is removing the regulations implementing Executive Order 12954, 29 CFR Part 270.

Publication in Final

The Department has determined that the removal of these regulations need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), 5 U.S.C. 553. The agency finds that good cause exists for dispensing with notice and public comment as unnecessary since Executive Order 12954, which gave rise to Part 270, has been held to be void by the Court of Appeals for the District of Columbia Circuit. The removal of the implementing regulations is thus exempt from notice and comment by virtue of section 553(b)(B) of the APA (5 U.S.C. 553(b)(B)).

Effective Date

This document will become effective upon publication pursuant to 5 U.S.C. 553(d). The Department has determined that good cause exists for waiving the customary requirement to delay the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that Executive Order 12954, which gave rise to Part 270, has been held to be void by the Court of Appeals for the District of Columbia Circuit.

Executive Order 12866

This document removes regulations for which there is now no authority and, therefore, is not a regulation or a rule as defined in section 2(d) of Executive Order 12866, 58 FR 51735 (October 4, 1993).

Regulatory Flexibility Act

This rule was not preceded by a general notice of proposed rulemaking and is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601(2) and 604(a)).

Paperwork Reduction Act

This rule contains no information collection requirements which are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520).

Small Business Regulatory Enforcement Fairness Act

The Department has determined that this final rule is not a “major rule” requiring prior approval by the Congress and the President pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 804), because it is not likely to result in (1) an annual effect on the economy of \$100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Further, since the Department has determined, for good cause, that publication of a proposed rule and solicitation of comments on this rule removing 29 CFR Part 270 is not necessary, under 5 U.S.C. 808(2), this final rule is effective immediately upon publication as stated previously in this notice.

Unfunded Mandates Reform Act

For purposes of Section 2 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, as well as Executive Order 12875, (58 FR 58093, October 28, 1993), this rule does not include any federal mandate that may result in increased expenditures by State, local and tribal governments, or increased expenditures by the private sector of more than \$100 million.

List of Subjects in 29 CFR Part 270

Administrative practice and procedure; Government contracts; Federal contractors and subcontractors.

Accordingly, Chapter II of Title 29 of the Code of Federal Regulations is amended by removing Part 270.

Signed at Washington, DC, this 27th day of September, 1996.

John Kotch,

Acting Deputy Assistant Secretary.

[FR Doc. 96–25276 Filed 10–2–96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 120 and 128

[CGD 91–012]

RIN 2115–AD75

Security for Passenger Vessels and Passenger Terminals

AGENCY: Coast Guard, DOT.

ACTION: Notice of policy clarification.

SUMMARY: On July 18, 1996, an Interim Rule was published (61 FR 139) entitled “Security for Passenger Vessels and Passenger Terminals”. Since that time the Coast Guard has discovered two areas in need of clarification to ensure that those affected by the Interim Rule can meet compliance dates. The areas of clarification are tonnage limitations and submission of terminal security plans.

FOR FURTHER INFORMATION CONTACT:

CDR Dennis J. Haise, Office of Compliance (G–MOC), Room 1116, (202) 267–1934, between 7:00 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Policy Clarification:

Tonnage

The tonnage measurement to be used in the application of this rule is U.S. registered tonnage, not International Tonnage Convention (ITC) measurements. Therefore, the rule applies to those vessels over 100 U.S. registered gross tons.

Submission of Terminal Security Plans

Terminal Security Plans should be submitted by the owner or operator of the vessel in the following situations:

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

b. When the owner or operator of the vessel has exclusive use of the pier and terminal building immediately adjacent to the pier and has complete control of that area.

c. When there is no terminal.

d. When passengers embark and or disembark and no baggage or stores are loaded or offloaded.

In situations c and d, an annex to the vessel's security plan may be used instead of a terminal security plan with the permission of the cognizant Coast Guard Captain of the Port.

Terminal Security Plans should be submitted by the owner or operator of

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]

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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. 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.¹ 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

¹ 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.