avoid the pancaked transmission rates that their competitors have to pay.[8]

II. Public Comment Procedures

The Commission invites all interested parties to submit an original and 14 copies of their comments. Comments should not exceed 50 pages, double-spaced, and should include an executive summary. Commenters should briefly describe themselves and should refer to Docket No. RM96–6–000. They should submit a copy of their comments on a 3½ inch diskette in ASCII II format. Comments must be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, no later than May 7, 1996. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Section, 888 First Street NE., Washington, DC 20426, during regular business hours.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2548 Filed 2–6–96; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1220

[Docket No. 96N–0011]

Tea Importation Act; Tea Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing how it intends to implement the Tea Importation Act (the Act) in the wake of the agency's appropriation for fiscal year (FY) 1996, which provides that none of the funds appropriated may be used to operate the Board of Tea Experts (the board). Without a board to provide recommendations for standards of purity, quality, and fitness for consumption of imported teas, FDA has decided to solicit public recommendations for the tea standards that will be effective beginning May 1, 1996. In addition, FDA requests comments on the appropriateness of this approach to setting such standards.

DATES: Written comments and other material considered relevant, including samples that the agency may use as standards, by April 8, 1996. FDA proposes that any final standards that are adopted in this proceeding will be effective on May 1, 1996.

ADDRESSES: Submit written comments and any tea samples to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION: Section 3 of the Act (21 U.S.C. 43) states:

> The Secretary of [Health and Human Services], upon the recommendation of the board of experts provided in section 2 of this title, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of tea imported into the United States, and shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards.

Under the Act and the regulations that FDA has adopted to implement it, FDA sets such standards annually (see 21 U.S.C. 42 and 21 CFR 1220.40). No tea that is inferior in purity, quality, or fitness for consumption to the standard established by FDA may be brought into this country (21 U.S.C. 41).

Public Law 104–37, which contains FDA's appropriation for FY 1996, states that: ''None of the funds appropriated or made available to the Food and Drug Administration in this Act shall be used to operate the Board of Tea Experts.'' This provision creates a significant problem for the agency since members of the board cannot be appointed, nor its activities supported by FDA. Nonetheless the Act remains in effect. Thus, FDA has a continuing obligation to implement it. This obligation is underscored by the fact that Congress rejected a broader limitation on the agency's ability to expend funds to implement the Act that appeared in the version of the appropriations bill that passed the Senate (see H. Rept. 104–268, 104th Cong., 1st sess. 38 (1995)). However, without the benefit of the advice of the board, the agency is faced with the question of how it will arrive at the standards required under the Act for imported teas.

In considering this question, FDA identified three options. First, it could do nothing to implement the Act. The agency rejected this option because it would be inconsistent with the apparent intent of Congress, and because it would mean that it would ostensibly be unlawful to bring or import into the United States any merchandise identified as tea. Even though the agency could, as an exercise of its enforcement discretion, do nothing about the latter fact, FDA considers it unfair and unwise to allow such a situation to emerge. Thus, the agency considers it incumbent on itself to continue to implement the Act in a manner that is consistent with law.

The second option that the agency identified was to ask the Department of Health and Human Services, of which FDA is a part, to operate the board with funds not appropriated in Pub. L. 104–37. The agency rejected this option because it is not consistent with the spirit of Congress's action, and because the Department is likely to have little ability to assume this financial and resource obligation.

The third option that FDA considered was to substitute public input for the recommendations of the board. This option is not inconsistent with the law. The requirement in 21 U.S.C. 43 is that the Secretary (and, by delegation, FDA) fix and establish standards for teas. While the law provides that the board is to provide recommendations to FDA, there is nothing in the Act that says that the agency can only establish such standards based on the board's recommendations. Thus, the agency is not precluded from relying on other sources of information. The agency considers it likely that the information that it receives in response to a request for comments will allow it to set appropriate standards for tea. Moreover, once the agency sets such standards, tea can continue to come into this country lawfully, limited only by the standards that FDA sets.

Based on these considerations, FDA is seeking public comment on the standards of purity, quality, and fitness for consumption of tea that it is to set under 21 U.S.C. 43 for the year beginning on May 1, 1996. FDA requests that interested persons submit all material that they consider relevant, including samples that the agency may use as standards. FDA will evaluate the information that it receives, and, based on that evaluation, it intends to arrive at the standards that will apply to tea shipped from abroad after May 1, 1996, until April 30, 1997.

In addition to comments on what the standards should be, FDA solicits comment on the process that it has instituted. FDA solicits comments on its

[8] *E.g.*, American Public Power Association initial comments at 4, reply comments at 9–10; National Rural Electric Cooperative Association initial comments at 20–21; National Independent Power Producers reply comments at 5–6; Indiana Utility Regulatory Commission initial comments at 36–7.

tentative view that this course of action is consistent with both the Act and Pub. L. 104–37. Any comments that disagree should set forth the basis for the view. The agency also solicits comments on whether there are any other options that the agency can follow that are preferable to the one that it has tentatively decided to pursue and yet that are still consistent with the two laws in question.

Dependent on the comments, information, and other material (including tea samples) submitted in response to this proposal, FDA is hopeful of being able to proceed directly to a final rule that establishes the applicable tea standards.

Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Analysis of Impacts

FDA has examined the impact of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs Federal agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is ''economically significant'' if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs. A regulation is considered ''significant'' under Executive Order 12866 if it raises novel legal or policy issues. The Regulatory Flexibility Act requires Federal agencies to minimize the economic impact of their regulations on small businesses.

FDA finds that this proposed rule is neither an economically significant nor significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, FDA certifies that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small businesses.

Under the current standard setting procedure, the public provides relevant information and material, such as tea samples, to the board, which then makes recommendations to FDA. Based on these recommendations, FDA sets tea standards for that year. Under the proposed system, the public may send information and material directly to FDA, which will set tea standards for that year without the recommendations of the board. This change in the standard setting process is not expected to lead to any additional compliance costs.

The primary benefit of the proposed method of setting tea standards is that it allows those standards to be set in the absence of recommendations by the board. FDA is required to set tea standards under Section 43 of the Act (21 U.S.C. 43).

FDA requests comments on the economic consequences of the proposed method of setting tea standards, the various ways in which tea samples and other information submitted to FDA may best be used to set tea standards, and on means by which the costs of the proposed standard setting process may be minimized and the benefits maximized.

Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no reporting, recordkeeping, labeling, or other third party disclosure requirements; thus, there is no ''information collection'' necessitating clearance by the Office of Management and Budget.

Interested persons may, on or before April 8, 1996, submit to the Dockets Management Branch (address above) written comments regarding this regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA believes that 60 days is an appropriate amount of time for meaningful comments to be submitted and for the agency to meet its statutory obligation to establish new standards for imported tea by May 1, 1996.

Dated: January 31, 1996.

William K. Hubbard,

Associate Commisioner for Policy Coordination.

[FR Doc. 96–2595 Filed 2–2–96; 10:52 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA034–4014, PA035–4015; FRL–5418–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation Request and Maintenance Plan for the Pittsburgh Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove a redesignation request for the Pittsburgh ozone nonattainment area and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision consists of a maintenance plan for the Pittsburgh ozone nonattainment area. The intended effect of this action is to propose disapproval of the redesignation request and its associated maintenance plan because the area violated the National Ambient Air Quality Standard for ozone (the ozone NAAQS) and is not eligible for redesignation. This action is being taken under sections 107 and 110 of the Clean Air Act.

DATES: Comments must be received on or before March 8, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. 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) 597–9337, at the EPA Region III office, or via e-mail at pino.maria@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On November 12, 1993, the Commonwealth of Pennsylvania formally submitted a redesignation request for the Pittsburgh ozone nonattainment area. At the same time, the Commonwealth submitted a maintenance plan for the Pittsburgh area as a SIP revision. The maintenance plan