

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 Commissioner 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

was subsequently amended on January 13, 1994 and, again, on May 12, 1995. During the 1995 ozone season, the Pittsburgh area violated the ozone NAAQS, making the area ineligible for redesignation. Therefore, EPA is proposing to disapprove the redesignation request and its associated maintenance plan.

#### Background

Under section 107(d)(3)(E) of the Clean Air Act (the Act), the following five criteria must be met for an ozone nonattainment area to be redesignated to attainment:

1. The area must meet the ozone NAAQS.
2. The area must meet applicable requirements of section 110 and Part D.
3. The area must have a fully approved SIP under section 110(k) of the Act.
4. The area must show that its experienced improvement in air quality is due to permanent and enforceable measures.
5. The area must have a fully approved maintenance plan under section 175A of the Act, including contingency measure.

The NAAQS for ozone is structured in terms of expected exceedances. An exceedance is said to occur when a monitoring site records a measurement above the ozone standard, 0.12 parts per million (ppm). In order for a monitoring site to meet the NAAQS, the average expected number of exceedances at the site must be less than or equal to one per year in a three-year period (i.e. three or less expected exceedances in a three-year period). An area is considered to be meeting the NAAQS if all locations in that area meet the NAAQS. If one monitor in an area does not meet the NAAQS, the entire area is designated nonattainment.

The Pittsburgh-Beaver Valley area (Pittsburgh area), which includes Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, is designated nonattainment for ozone and is classified as moderate (56 FR 56694). Monitored air quality data recorded in the Pittsburgh area met the ozone NAAQS from 1990–1992 and continued to meet the NAAQS through 1994. The Commonwealth of Pennsylvania submitted an ozone maintenance SIP and redesignation request on November 12, 1993, and subsequently amended the maintenance plan on January 13, 1994 and May 12, 1995.

#### EPA Evaluation

During the 1995 ozone season, ambient air quality monitors in the

Pittsburgh area recorded 17 exceedances of the ozone standard. Two monitors in the Pittsburgh area recorded violations of the ozone NAAQS (i.e. four or more exceedances of the ozone standard). One monitor recorded seven exceedances. Another monitor recorded four. The air quality data has been quality assured in accordance with established procedures. Thus, the Pittsburgh area no longer meets the first criteria for redesignation, its air quality monitoring data does not meet the ozone NAAQS. Therefore, the area is not eligible for redesignation.

The maintenance plan SIP revision's demonstration of maintenance of the ozone NAAQS is based on a level of ozone precursor emissions thought to be able to provide maintenance of the NAAQS. The violations of the ozone NAAQS that occurred in 1995 show that the underlying basis for the plan's maintenance demonstration is no longer valid. Therefore, the maintenance plan is not approvable.

A more detailed evaluation of Pennsylvania's redesignation request and maintenance plan for the Pittsburgh area can be found in the Technical Support Document (TSD) prepared by EPA for this rulemaking action. The TSD and other materials related to this action are available for public inspection at the EPA Regional office listed in the ADDRESSES section of this document.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this document.

#### Proposed Action

Because the Pittsburgh area is not eligible for redesignation, EPA is proposing to disapprove Pennsylvania's request for redesignation of the Pittsburgh area and the accompanying maintenance plan, which was originally submitted on November 12, 1993, and amended on January 13, 1994 and May 12, 1995.

Upon final disapproval of the maintenance plan, 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 Part 51, § 51.448(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.

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

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.

EPA's denial of the state's redesignation request under section 107(d)(3)(E) of the Act does not affect any existing requirements applicable to small entities nor does it impose new requirements. The area retains its current designation status and will continue to be subject to the same statutory requirements. To the extent that the area must adopt regulations, based on its nonattainment status, EPA will review the effect of those actions on small entities at the time the State submits those regulations. Therefore, I certify that the disapproval of the redesignation request will not affect a substantial number of small entities.

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.

The Regional Administrator's decision to approve or disapprove Pennsylvania's redesignation request for the Pittsburgh ozone nonattainment area and the associated maintenance plan will be based on whether they meet the requirements of section 110(a)(2) (A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

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

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

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

Dated: January 22, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96-2717 Filed 2-6-96; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Parts 89, 90, and 91

[FRL-5412-3]

RIN 2060-AE54

#### Control of Air Pollution; Emission Standards for New Gasoline Spark-Ignition and Diesel Compression-Ignition Marine Engines; Exemptions for New Nonroad Compression-Ignition Engines at or Above 37 Kilowatts and New Nonroad Spark-Ignition Engines at or Below 19 Kilowatts

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

**ACTION:** Supplemental notice of proposed rulemaking; proposed revisions.

**SUMMARY:** Pursuant to section 213(a)(3) of the Clean Air Act as amended, EPA published a Notice of Proposed Rulemaking (NPRM) on November 9, 1994 (59 FR 55930) for emission standards for new gasoline spark-ignition and diesel compression-ignition marine engines. EPA believes that the proposed standards will help nonattainment areas come into compliance with the ozone National Ambient Air Quality Standards.

The Agency is now publishing this Supplemental Notice of Proposed Rulemaking (SNPRM) because EPA wishes to refine its proposals regarding compliance programs, and because EPA wishes to address some of the comments received on the NPRM. Many of the provisions of this SNPRM seek to minimize regulatory burdens proposed in the NPRM without reducing environmental benefits. The proposals include, for example, modified compliance requirements for small manufacturers and manufacturers of sterndrive/inboard engines or old technology two-stroke outboard/personal watercraft engines. Also, this Notice proposes an in-use averaging, banking, and trading program, and addresses comments regarding consistency with the regulations on land-based nonroad compression-ignition engines rated at or above 37 kilowatts (kW). The Agency is proposing adjustments to the form of the proposed standards for gasoline spark-ignition marine engines, and is proposing changes to the level of the standards for sterndrive and inboard

engines. Finally, this Notice proposes to revise the criteria for a national security exemption in the regulations regarding marine engines, land-based nonroad compression-ignition engines ( $\geq 37$  kW), and land-based nonroad spark-ignition engines ( $\leq 19$  kW).

**DATES:** The comment period for this rulemaking will reopen on February 7, 1996, for purposes of taking comment on issues raised in this SNPRM and will remain open until March 8, 1996, or 30 days after the date of a public hearing, if one is held.

The Agency will hold a public hearing regarding the content of this SNPRM on February 22, 1996, if it receives the request to testify at a hearing by February 20, 1996. The Agency will cancel this hearing if no one requests to testify. Members of the public should call the contact persons indicated below to notify EPA of their interest in testifying at the hearing; they may call the contact persons after February 20, 1996, to determine whether the hearing will be held.

**ADDRESSES:** Interested parties may submit written comments (in duplicate, if possible) for EPA consideration by addressing them as follows: EPA Air Docket (LE-131), Attention: Docket Number A-92-28, room M-1500, 401 M Street, SW., Washington, D.C. 20460.

The public hearing will be held at the National Vehicle and Fuel Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, at 9 a.m.

Materials relevant to this rulemaking are contained in this docket and may be reviewed at this location from 8:00 a.m. until 5:30 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

**FOR FURTHER INFORMATION CONTACT:** Deanne R. North, Office of Mobile Sources, Engine Programs and Compliance Division, (313) 668-4283, or James A. Blubaugh, Office of Mobile Sources, Engine Programs and Compliance Division, (202) 233-9244.

#### SUPPLEMENTARY INFORMATION:

##### I. Obtaining Copies of the Regulatory Language

The Agency has not included in this document the proposed regulatory language. Electronic copies (on 3.5" diskettes) of the proposed regulatory language may be obtained free of charge by visiting, writing, or calling the Environmental Protection Agency, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4288. Refer to Docket A-92-28. A copy is also

available for inspection in the docket (see **ADDRESSES**).

The preamble and regulatory language are also available electronically on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. The service is free of charge, except for the cost of the phone call. Users are able to access and download TTN files on their first call using a personal computer and modem per the following information.

TTN BBS: 919-541-5742 (1200-14400 bps, no parity, 8 data bits, 1 stop bit) Voice Helpline: 919-541-5384. Also accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov Off-line: Mondays from 8:00 a.m. to 12:00 Noon ET

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

```
<T> GATEWAY TO TTN TECHNICAL
      AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<6> Non-Road
<1> File area #1. Non-Road Marine
      Engines
```

At this point, the system will list all available files in the chosen category in chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (that is, ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

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