

Federalism

The Corporation has analyzed this proposal under the principles and criteria in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend Part 402—Tariff of Tolls (33 CFR Part 402) as follows:

PART 402—[AMENDED]

1. The authority citation for 33 CFR Part 402 continues to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981–990.

2. Section 402.9 would be amended by revising paragraph (a) and the first sentence of paragraph (c) introductory text to read as follows:

§ 402.9 Incentive tolls.

(a) Notwithstanding anything contained in this Tariff, the portion of the composite toll related to charges per metric ton of cargo charged on new business shall be reduced by fifty percent for a Seaway transit beginning and ending during the 1995 navigation year.

* * * * *

(c) For the purposes of this section, "new business" means cargo that has not moved through a Seaway lock between an origin and a destination as defined in this paragraph (c) during the navigation seasons of 1992, 1993, and 1994 or cargo that has moved through a Seaway lock in quantities representing less than five percent of the average of Seaway traffic between an origin and a destination during the navigation seasons of 1992, 1993, and 1994. * * *

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5. Section 402.11 would be amended by revising the first sentence of paragraph (a) and paragraph (b) through (d) to read as follows:

§ 402.11 Volume discount.

(a) A volume rebate shall be granted to a shipper of downbound cargo or to a receiver of upbound cargo at the end of the 1995 navigation season after payment of the full toll specified in the schedule under the tariff in § 402.8 of this part if shipments of a particular commodity during 1995 exceed by a minimum of 25,000 tons the shipper's or receiver's highest tonnage for that particular commodity during 1991, 1992, 1993, or 1994 in the Seaway.

* * *

(b) Volume rebates shall be granted only with respect to commodities whose shipper and receiver have shipped or received the subject commodity in the years 1991, 1992, 1993, and 1994 and have not been subject of a merger or take-over during 1991, 1992, 1993, 1994, or 1995.

(c) The volume rebate shall be equal to a 50 percent reduction of the portion of the composite toll related to charges per metric ton of cargo paid for the shipments that surpass the shippers or receiver's highest tonnage for that commodity during 1991, 1992, 1993, or 1994. Payment of rebates will be made directly to the qualified receiver or shipper.

(d) A description of the shipper's or receiver's Seaway traffic history for 1991, 1992, 1993, 1994, and 1995 by port, vessel name, transit date, commodity description, and tonnage shall be submitted by the shipper or receiver prior to the end of 1995 and shall be subject to audit by the Authority.

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Issued at Washington, D.C. on April 4, 1995.

Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 95–8808 Filed 4–10–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 20–1–6517, PA 31–1–6009, PA 39–1–6518, AD–FRL–5187–6]

Proposed Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: Approval of PM–10 Implementation Plan for the Liberty Borough Area of Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve three State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of attaining and maintaining the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10) in Allegheny County. These implementation plans were submitted by the State to: fulfill the County's Group III requirements;

strengthen the Allegheny County SIP; and satisfy certain federal requirements for an approvable nonattainment area PM–10 SIP for the Liberty Borough area of Allegheny County, Pennsylvania. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments must be received on or before May 11, 1995.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air, Radiation, and Toxics Division, 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Allegheny County Health Department of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Alan J. Cimorelli, (215) 597–6563.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1987, EPA promulgated National Ambient Air Quality Standards (NAAQS) for PM–10 (52 FR 24634). These standards replaced those promulgated for total suspended particulate (TSP) in 1971. On that day, EPA also promulgated, in 40 CFR parts 51 and 52, policies and regulations by which it would implement the PM–10 NAAQS.

Although there was a lack of extensive PM–10 ambient monitoring data at the time, EPA evaluated existing particulate matter data and concluded that there were some areas where the PM–10 NAAQS were likely to be violated, other areas where it could be presumed that a state's existing total suspended particulate regulations were adequate to provide for attainment, and other areas in which the attainment status was uncertain. Recognizing that it would be unreasonable to require full attainment demonstrations in all areas, EPA classified areas of the country as groups based on the probability that each area would maintain the PM–10 standard. Group I areas had a greater than 95 percent probability of nonattainment, Group II areas had a 20–95 percent probability of nonattainment and Group III areas had a less than 20 percent probability of nonattainment. Through this process, EPA identified all

of Allegheny County as a Group II area on August 7, 1987 (52 FR 29383). On January 20, 1988, EPA approved Allegheny County's request to limit the Group II area to an area near Allegheny County's Braddock monitor.¹

State planning requirements were different for each Group classification. All states were required to fulfill the Group III requirements which included: the adoption of NAAQS for PM-10; the adoption of the definition for PM-10 emissions; the adoption of the reference method for the measurement of PM-10 in ambient air; the inclusion of PM-10 values in the episode plan; and the addition of PM-10 to the definitions of major source or facility, major modification, and significant air quality impact. States containing Group II areas were to submit committal SIPs that pledged to gather ambient air quality data and evaluate emissions inventories and control strategies in these areas. States containing Group I areas were required to submit full SIP revisions, including attainment demonstrations, within nine months.

The Clean Air Act Amendments of 1990 affected PM-10 classifications and requirements in a number of ways. The Act, as amended, eliminates the "Group" classifications. Former Group I areas, and Group II and Group III areas that had monitored violations of the PM-10 NAAQS before January 1, 1989, were designated as moderate nonattainment areas by operation of law. The Liberty Borough monitor recorded sixteen exceedances of the 24-hour PM-10 standard in 1988. As a result, the Liberty Borough area (consisting of the City of Clairton and the Boroughs of Liberty, Lincoln, Glassport, and Port Vue) was designated as a moderate nonattainment area.

States containing initial moderate PM-10 nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than

December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions were due at a later date. States with initial moderate PM-10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM-10 by June 30, 1992 (see section 189(a)). These states were also to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM-10 NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13543-13544.

The amended Act eliminated the requirement for states to seek approval of "committal" SIP revisions for Group II areas as prescribed in the July 1, 1987 **Federal Register**. The Group II areas are being addressed using the authorities established in section 107 of the Act concerning the designation of areas as attainment or nonattainment with regard to the NAAQS.²

The Act did not affect the requirements established for Group III areas. The July 1, 1987 regulations require states, among other things, to seek approval of SIP revisions as required under the preconstruction review program and to codify other regulatory changes as needed.

The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts 1 and 4 of Title I, Part D of the Act. EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM-10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16,

1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this notice.

Evaluation of State Submittal

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565-13566). EPA is granting approval of the PM-10-related plan revisions submitted to EPA on November 14, 1988, January 12, 1993, and January 13, 1994 because they meet all of the applicable requirements of the Act. The following sections provide an analysis of the State's submittals and a discussion of their approvability. More detail is provided in the technical support document (TSD) to this rulemaking (memo from Thomas A. Casey to the SIP Docket File dated June 6, 1994).

Analysis of November 14, 1988 "Group III" Submittal

1. Procedural Background

The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing.³ Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing.⁴

Allegheny County held a public hearing on April 21, 1988 to solicit public comment on the implementation plan for the Liberty Borough area. Following the public hearing, the plan was adopted by the County on August 11, 1988. The package was signed by the Secretary of the Pennsylvania Department of Environmental Resources (PADER) on November 8, 1988, and submitted to EPA as a proposed revision to the SIP. Provisions for a minor-source, abrasive blasting permit program (Article XX § 533) and an asbestos-related provision (Article XX § 1001.02), originally included in that submittal, were withdrawn on March 14, 1994.

³ Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

⁴ This submittal pre-dates the 40 CFR part 51, Appendix V requirement for a completeness determination.

¹ Letter from Thomas J. Maslany, Director, Air Management Division, EPA Region III to Ronald J. Chleboski, Deputy Director, Allegheny County Health Department, Bureau of Air Pollution Control.

² EPA has determined that sufficient evidence does not exist to redesignate the Braddock area as nonattainment for PM-10 at this time. No PM-10 exceedances have been monitored at Braddock since the promulgation of the PM-10 NAAQS.

2. Technical Evaluation

Allegheny County's Group III SIP submittal consists of: a definition of PM-10 (Article XX § 101.90); ambient air quality standards for PM-10 (Article XX § 109); a definition of areas where certain additional control measures are required (Article XX § 527, superseded by the 1993 submittal); a reference ambient monitoring method for PM-10 (Article XX § 613); the inclusion of PM-10 in air quality episode criteria (Article XX § 704); and the revision of several definitions (such as "significant impact" and "major modification") to include PM-10 in new source review activities (Article XX § 801). The submittal also deletes Article XX Appendix 1, a listing of the attainment, nonattainment, and unclassifiable areas.

EPA has reviewed these provisions and determined that they are sufficient to satisfy all of the Group III requirements.

Analysis of January 12, 1993 "SIP Strengthening" Submittal

1. Procedural Background

Allegheny County held a public hearing on August 27, 1992 to solicit public comment on the implementation plan for the Liberty Borough area. Following the public hearing, the plan was adopted by the County on October 8, 1992. The package was signed by the Secretary for PADER on December 31, 1992, and submitted to EPA as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete, and a letter dated April 8, 1993 was forwarded to the State indicating the completeness of the submittal and the next steps to be taken in the review process.

2. Technical Evaluation

This submittal strengthens the County's portion of the Pennsylvania SIP with respect to the non-point source RACM guidance issued by EPA as Appendices C1, C2 and C3 of the General Preamble (Article XX § 521, 523, and 524); expands the area in which certain area-source provisions apply; and adopts EPA test methods 201, 201A, and 202 (40 CFR part 60, appendix M). (The submittal also included new emission limits for industrial combustion units (Article XX § 402) which were replaced in their entirety by new provisions in the "Attainment SIP" submittal.) The

submittal also contains several non-PM-10-related provisions that are the subject of separate rulemakings.

The section 521, 523, and 524 rules provide visible emission (VE) limits for fugitive dust from wind erosion, transport of materials, and land clearing, respectively. Compliance is determined by previously-approved procedures (Article XX § 606).

This submittal also provides for new enforceable emission limits, expands the geographic scope of some existing provisions, and establishes improved test methods that strengthen the SIP. For this reason, and because the rules were adopted and submitted in a manner consistent with 40 CFR part 51, EPA is fully approving Allegheny County's "SIP strengthening" submittal. A discussion of the County's RACM/RACM analysis is provided in section II.C.3 of this notice and in the TSD.

Analysis of "Attainment SIP" Submittal

1. Procedural Background

Allegheny County held a public hearing on December 3, 1993 to solicit public comment on the attainment plan for the Liberty Borough area. Following the public hearing, the plan was adopted by the County on December 16, 1993. The package was signed by the Secretary for PADER on January 6, 1994, and submitted to EPA as a proposed revision to the SIP.

The SIP submittal was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete on January 10, 1994, and a letter dated January 19, 1994 was forwarded to the State indicating the completeness of the submittal and the next steps to be taken in the review process.

The submittal contains source-specific limits for ten industrial boilers, including some alternate limits (Article XXI § 2104.6.a); new source-specific limits for 21 other processes (Article XXI § 2104.6.d *et seq.* and 2105.49); a reduction of the leaking coke oven door limit from 10% (plus two) to 8% (plus two) on USX-Clairton Batteries #1, #2, #3, #7, #8, #9, and #19 (Article XXI § 2105.21.b); a reduction in the coke pushing limit from 0.02 to 0.01 grains per dry standard cubic foot from USX-Clairton Batteries #1, #2, #3, #7, #8, #9, and #19 (Article XXI § 2105.21.e); new limits for material storage and handling at the Glassport Transportation Center (Article XXI § 2105.29.e); new definitions related to coke oven gas

emissions (Article XXI § 2101.20); and new test methods (Article XXI § 2107.1 and 2107.2).

Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Pursuant to EPA regulations, the emissions inventory should also include a comprehensive, accurate, and current inventory of allowable emissions in the area. Because the submission of such inventories are necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the submission (see 57 FR 13539).

Pennsylvania submitted an inventory of actual emissions for base year 1992. The base year inventory is dominated by emissions from coke production activities at the USX-Clairton Coke Works, which accounts for 72% of the inventory. Additional sources included public roads (26%) and other industrial sources (1%).

EPA is proposing to approve the emissions inventory because it appears to be generally accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Clean Air Act.⁵ For further details see section 2.3.2.1 of the Technical Support Document (TSD).

2. RACM (Including RACT)

As noted, the initial moderate PM-10 nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539-13545 and 13560-13561).

a. PM-10 RACT

USX-Clairton is the only point source complex in the Liberty Borough nonattainment area subject to the RACT requirement. The large emission points

⁵The EPA issued guidance on PM-10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM-10 SIP Development Guideline*. The guidance provided in this document appears to be consistent with the Act and EPA's guidelines.

and their emission limits are listed in Tables 1 and 2.

TABLE 1.—RACT FOR USX CLAIRTON WORKS COKE OVEN BATTERY EMISSIONS
[Allowable Emission Limits]

Source	Batteries 1-3, 7-9 and 19	Batteries 13-15, 20 and "B"
Charging	VE (visible emissions) for 75 seconds during any four consecutive charges.	VE for 55 seconds during any five consecutive charges.
Door Leaks	VE from 8% of doors excluding the last two charged.	VE from 5% of doors excluding the last two charged.
Charging Ports	VE from 2% of charging ports or seals	VE from 1% of charging ports or seals.
Offtake Piping	VE from 5% of offtake pipe	VE from 4% of offtake pipes.
Pushing	0.01 gdsfc 20% opacity of VE from PEC outlet or pushing fugitives.	At any time 0.04 lb/ton coke. At any time, 20% opacity of VE from PEC outlet or pushing fugitives.
Combustion Stacks	0.030 grains per dsfc	0.015 grains per dsfc.

TABLE 2.—RACT FOR USX CLAIRTON WORKS OTHER EMISSIONS
[Allowable Emission Limits]

Source	Post-revision
Traveling Hot Car	10% opacity in open atmosphere.
Quench Towers	Water quality ≥ Monongahela River (750 mg/liter total dissolved solids); baffles.
Cooling Towers	Water quality ≥ Monongahela.
Boilers	387 TPY.
Pulverizers	11.86 grain PM-10 per ton.
Continuous Unloaders	No VE.
Storage Piles	VE 20% opacity for 3 min/60 min.
Private Industrial Roads.	VE 20% opacity for 3 min/60 min.

cases, the County's emission limits may be more restrictive than RACT because further reductions were required to demonstrate attainment. The demonstration that Allegheny County's emission limits are comparable to the most stringent state or local limits in the nation obviates the County's need to also undertake a review of the technical, economic, and environmental considerations that are generally involved in RACT analyses.

b. Other RACM

As noted above, EPA issued non-point source RACM guidance in Appendices C1, C2, and C3 to the General Preamble. Appendix C1 lists fifteen available fugitive dust control measures. In its "RACM" submittal, Allegheny County satisfactorily described that sections 521 through 526 of Article XX include the applicable available control measures (57 FR 18070). Sections 521 and 522 regulate visible emissions from roadways, haul roads, parking lots, and source premises, generally; § 523 prohibits visible emissions from the transport of solids or liquids; and §§ 524, 525, and 526 regulate visible emissions from construction, mining, and demolition, respectively.

Appendices C2 and C3 provide guidance on the requirements for RACM for residential wood combustion (RWC) and prescribed burning. RWC is not a significant source of PM-10 in the Liberty Borough nonattainment area (comprising less than one-half of one percent of the emissions inventory); therefore the County determined, pursuant to EPA's guidance that to require control of this de minimis source would be unreasonable and not constitute RACM. Prescribed burning on a large scale is not a common practice in Allegheny County and such burning that does occur is adequately regulated by Article XX § 516.

The total of all the control measures contained in this submittal result in a

reduction in federally-allowable emissions of 5700 tons per year of PM-10 and a reduction in actual emissions of at least 600 tons per year in the nonattainment area and environs from 1992 levels. A more detailed discussion of the individual source contributions and their associated control measures can be found in the TSD. EPA has reviewed the State's submittal and concluded that it provides for RACM (including RACT). The implementation of Allegheny County's PM-10 control strategy will promote attainment of the PM-10 NAAQS as of December 31, 1994. By this action EPA is approving the control strategy as RACM, including RACT.

3. Demonstration

As noted, the initial moderate PM-10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment of the PM-10 NAAQS as expeditiously as practicable, but no later than December 31, 1994 (See section 189(a)(1)(B) of the Act). Alternatively, the State must show that attainment by December 31, 1994 is impracticable. The 24-hour PM-10 NAAQS is 150 micrograms/cubic meter (µg/m³), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³ is equal to or less than one (see 40 CFR 50.6). The annual PM-10 NAAQS is 50 µg/m³, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 µg/m³ (*id.*).

Allegheny County produced an attainment demonstration for the Liberty Borough area using dispersion modeling. The demonstration indicated that the NAAQS for PM-10 would be attained by December 31, 1994 in the Liberty Borough area and maintained in future years. Allegheny County's analysis shows that, even if all sources

On May 19, 1994, Allegheny County provided EPA with documentation substantiating its claim that the revised SIP would provide for RACT (Letter from Cari J. Weaver, Section Head of Planning, Division of Air Quality to Marcia L. Spink, Chief, Air & Radiation Programs Branch, EPA Region III). The County compared its emission limits to those found in the appropriate guidance⁶ and found their emission limits to be at least as restrictive as those in the 1980 Steel RACT document or those in neighboring jurisdictions. The County also found its emission limits to be generally equivalent to the most restrictive applicable limits found in *Procedures for Identifying Reasonably Available Control Technology for Stationary Sources of PM-10* (EPA-452/R-93-001). In some

⁶ August 7, 1980 memorandum from Edward E. Reich, Director, Stationary Source Enforcement Division to the Regional air enforcement directors entitled "Steel Technical Support Options and Documents," (with the attached table entitled "Particulate Emission Limitations Generally Achievable on a Retrofit Basis").

emit at their newly adopted maximum allowable emission rates, the 24-hour PM-10 concentration will not exceed 150 $\mu\text{g}/\text{m}^3$ more than once per year. Similarly, the demonstration shows that, in the attainment year, the annual PM-10 concentration will not exceed the annual PM-10 NAAQS of 50 $\mu\text{g}/\text{m}^3$. The analysis was performed in a manner that is consistent with the Guideline on Air Quality Models (40 CFR part 51, appendix W). The control strategy used to achieve these design concentrations is summarized in the section titled "RACM (including RACT)". For a more detailed description of the attainment demonstration and the control strategy used, see the Technical Support Document.

4. PM-10 Precursors

The control requirements that are applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors, unless EPA determines such sources do not contribute significantly to PM-10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The PM-10 precursors explicitly identified in the Act are sulfur dioxide (SO_2), nitrogen oxides (NO_x), and volatile organic compounds (VOC).

An analysis of air quality and emissions data for the Liberty Borough nonattainment area indicates that while exceedances of the NAAQS are chiefly attributable to direct particulate matter emissions from industrial sources within the nonattainment area, locally-formed, secondary PM-10 makes a significant contribution. According to the County's analyses, emissions of sulfur dioxide (SO_2) from coke ovens, coke oven battery underfiring, and industrial boilers can contribute up to 45 $\mu\text{g}/\text{m}^3$ in sulfates to the total 24-hour PM-10 concentrations (though the contribution is usually substantially less). Similarly, the County found that organic carbon could contribute up to 28 $\mu\text{g}/\text{m}^3$, but this contribution is most likely dominated by condensed VOC, which are controlled as PM-10 as described in the RACM/RACT section of this notice. Nitrate loading was rarely in excess of 5 $\mu\text{g}/\text{m}^3$. Consequently, EPA finds, pursuant to section 189(e) of the Act, that SO_2 emissions do contribute significantly to PM-10 exceedances in the Liberty Borough nonattainment area, while VOC and NO_x emissions do not. Therefore, under sec. 189(e) the requirement to control SO_2 emissions applies to the area, while the requirement for VOC and NO_x controls do not apply. This finding does not affect any other control technology requirements of the Act. It should be

noted that while EPA is making a general finding for this area, today's finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area.

Pursuant to section 189(e) Allegheny County's current SIP provides for the control SO_2 emissions. In a May 19, 1994 letter, Allegheny County found that its SO_2 limits for battery combustion (40 grains per 100 dry standard cubic foot of COG) and boilers ($\text{lb SO}_2/\text{MMBTU}=1.7E^{-0.14}$, where E is the actual heat input in MMBTU/hr) were more stringent than those of neighboring jurisdictions. For more detail, see the TSD.

5. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM-10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or as may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

In evaluating whether the requirement to implement RFP for this initial moderate area has been met, EPA has reviewed the attainment demonstration and control strategy for the area in order to determine whether annual incremental reductions in addition to those provided in the SIP should be required in order to ensure attainment of the PM-10 NAAQS by December 31, 1994 (see section 171(1)). All of Allegheny County's new PM-10 requirements affecting the nonattainment area became effective during 1994, and the County's air quality analysis demonstrates that these controls would be sufficient to cause attainment of the NAAQS by December 31, 1994. Therefore, no additional incremental reductions are needed and quantitative milestones demonstrating RFP by 1994, as required by the Act, are being met in the area. The County's rules satisfy the requirements for quantitative milestones and RFP.

6. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (See sections 172(c)(6),

110(a)(2)(A) and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The particular control measures contained in the SIP are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion, including coke production, fuel combustion, and material handling and processing. Some of the provisions are County-wide, some apply only in the nonattainment area, and others are source-specific. The geographic applicability and compliance date of each provision are clearly stated. In addition, this SIP revision incorporates several federal test methods into the Allegheny County SIP. EPA believes that these procedures, along with previously-approved test methods, serve as acceptable methods for determining compliance with the rules provided in this SIP revision.

The TSD contains further information on enforceability requirements including: enforceable emission limitations; a description of the rules contained in the SIP and the source types subject to them; test methods and compliance schedules, as appropriate; malfunction provisions; excess emission provisions; averaging times for compliance test methods; correctly cited references of incorporated methods/rules; and reporting and recordkeeping requirements.

Allegheny County has adopted a program that will ensure that the measures contained in the SIP are adequately enforced. The effective date of each new or revised rule is provided for in each provision. The existing test methods and recordkeeping requirements, along with those included in this SIP revision, are sufficient to determine compliance with each emission limit.

7. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIPs that demonstrate attainment must include contingency measures. See generally 57 FR 13543-13544.

These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not

part of the area's control strategy. The SIP must provide that these measures take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM-10 NAAQS by the applicable statutory deadline.

Allegheny County's SIP submittal does not contain contingency measures. On January 18, 1994, EPA formally found that the Commonwealth of Pennsylvania had not submitted contingency measures to EPA for the Liberty Borough area as required by the Act.⁷ This finding started the eighteen-month and 24-month sanctions clocks pursuant to section 179(a) of the Act. Also, section 110(c) requires that EPA promulgate a federal implementation plan (FIP) no later than two years after making a finding under section 179(a). Today's rulemaking has no effect on the January 18 finding or the associated sanctions and FIP clocks. The sanction clock will continue to run until EPA receives a complete SIP submittal of the contingency measures, and the FIP clock will continue to run until EPA approves those contingency measures.

Proposed Action

EPA is proposing to approve the PM-10-related revisions to the Allegheny County portion of the Pennsylvania SIP submitted to EPA on November 14, 1988,⁸ January 12, 1993, and January 13, 1994.

Federally-approved state implementation plan must be in conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that Pennsylvania's November 14, 1988 submittal conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. EPA*, 3427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2)).

This action to propose approval of the PM-10 SIP for Allegheny County, Pennsylvania has been classified as a Table 2 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 an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets 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, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 21, 1995.

Stanley Laskowski,

Acting Regional Administrator, Region III.
[FR Doc. 95-8883 Filed 4-10-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Chapter II

[RSI-95-1]

Regulatory Review

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of meetings; request for comments.

SUMMARY: The Federal Railroad Administration invites all individuals affected by the rail safety regulatory program to discuss the agency's regulations and enforcement policies during two open forums to be convened in April. In addition, FRA invites written comment on ways to improve the safety regulatory program to make it more flexible, performance-oriented and cost-effective.

DATES: Public meetings will be held in Chicago, IL on April 20, 1995 and in Newark, N.J. on April 25, 1995. Written comments must be submitted to the FRA by May 5, 1995.

ADDRESSES: Public meetings: The Chicago, IL meeting will be held in the Tower's West room of the Knickerbocker Hotel, 163 E. Walton Place, from 9:00 a.m. to 1:00 p.m. The Newark, NJ meeting will be held in the Crystal Room of the Robert Treat Hotel, 50 Park Place, (about 5 minutes from Pennsylvania Station) from 10:00 a.m. to 2:00 p.m.

Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, U.S. Department of Transportation, 400 7th Street, S.W., Room 8201, Washington, D.C. 20590-0001. Persons desiring to be notified that their written comments have been received by FRA should submit a self-addressed, stamped postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

FOR FURTHER INFORMATION CONTACT: Ed English, Office of Safety Enforcement, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, 202-366-9252, or Lisa Levine, Office of Chief Counsel, Federal

⁷January 18, 1994 letter from Stanley L. Laskowski, Acting Regional Administrator, EPA Region III to Governor Robert P. Casey.

⁸EPA has determined that this submittal conforms with the requirements of the Act, irrespective of the fact that the submittal preceded the date of enactment of the Clean Air Act Amendments of 1990.