category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under

ADDITIONAL.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart C as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:


2. Add Temporary § 165.T05–0391, to read as follows:

§ 165.T05–0391 Safety Zone; Ocean City Air Show, Atlantic Ocean, Ocean City, MD

(a) Regulated area. The following area is a safety zone: Specified waters of the Atlantic Ocean bound by the following coordinates: 38°21′38″ N/075°04′04″ W, 38°21′27″ N/075°03′29″ W, 38°19′35″ N/075°04′19″ W, 38°19′45″ N/075°04′54″ W (NAD 1983), in the vicinity of Ocean City, Maryland.

(b) Definition: For purposes of enforcement of this section, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) Regulation. (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign; and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads, Virginia can be contacted at telephone number (757) 638–6637.

(4) U.S. Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) Enforcement period. This rule will be enforced from 10 a.m. until 4 p.m. on June 10, 2011, from 10 a.m. until 4 p.m. on June 11, 2011, and from 10 a.m. until 4 p.m. on June 12, 2011.

Dated: May 16, 2011.

Mark S. Ogle, Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2011–13329 Filed 5–27–11; 8:45 am]
attainment suspends the requirement for the Commonwealth of Pennsylvania to submit, for the Pittsburgh Area, an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS as long as the area continues to attained the 1997 8-hour ozone NAAQS. If EPA subsequently determines, after notice-and-comment rulemaking, that the Pittsburgh Area has violated the 1997 8-hour ozone NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.918, would no longer exist, and the Pittsburgh Area would thereafter have to address applicable requirements.

This action is not a redesignation of the area to attainment. The Pittsburgh Area will remain designated nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan.

Other specific information regarding this determination and the rationale for EPA's proposed action are explained in the NPR, and will not be restated here.

III. Summary of Public Comments and EPA Responses

On March 9, 2011, EPA received adverse comments on the NPR from Mr. Robert Ukeiley on behalf of the Chesapeake Bay Foundation, the Group Against Smog and Pollution, the National Parks Conservation Association, and the Sierra Club. A summary of the comments submitted and EPA's response is provided below.

Comment: The commenter stated that EPA should not approve the attainment determination of attainment because the Pittsburgh Area does not have a plan to meet the 1997 8-hour ozone NAAQS.

Response: EPA disagrees with the commenter's assertion that no common sense or legal basis exists for EPA to finalize its determination of attainment. The sole question addressed by EPA's rulemaking is whether the monitored ambient air quality in the area shows that the area has attained the 1997 8-hour ozone standard. The commenter does not contest EPA's finding that the Pittsburgh Area meets this NAAQS. Upon EPA's final determination that the area has attained the standard, 40 CFR 51.918 provides that the CAA requirement to submit planning SIPs associated with attainment of that standard are suspended for as long as the area continues to have ambient air quality data that meets that NAAQS. This regulation, which was upheld by the United States Court of Appeals for the District of Columbia Circuit (DC Cir) in NRDC v. EPA, 571 F.3d 1245 (DC Cir. 2009), is based on the principle that when an area is already attaining a standard, and continues in attainment, there is no basis for requiring planning SIPs to attain that standard. In other words, if an area is meeting the NAAQS, it does not need a plan to meet the NAAQS. No additional measures are required for the area to attain the standard, since the area is already in attainment. In any event, EPA's determination of attainment is based solely on quality-assured ambient air quality monitoring. It is 40 CFR 51.918 that directs the suspension of planning requirements for the 1997 8-hour ozone standard. This suspension lasts only for so long as the area continues in attainment. Contrary to the commenter's contention, under these circumstances there are no adverse impacts from the suspension.

Comment: The commenter asserts that the data from ambient air quality monitors in the Pittsburgh Area do not meet the 75 parts per billion (ppb) 2008 NAAQS or the 60 to 70 ppb levels proposed in EPA's reconsideration of the 2008 NAAQS.

Response: EPA's rulemaking action here addresses only the 1997 8-hour ozone NAAQS, and has no bearing on whether the area is attaining any other NAAQS or requirements under any other NAAQS. Therefore, this comment is not relevant to this rulemaking action. EPA must perform an evaluation under CAA Section 110(l) to justify a determination of attainment for the Pittsburgh Area, and further alleges that CAA Section 110(l) would show that EPA should disapprove the attainment determination. The commenter contends that EPA must analyze how delaying implementation of the 1987 SIP revisions, including RACT, will interfere with other NAAQS attainment. EPA's rulemaking here is restricted to EPA's determination, based on ambient air quality, that the Pittsburgh Area is attaining the 1997 8-hour ozone standard. No other requirements are suspected and EPA does not contest, that the area is attaining that standard and the suspension of attainment planning SIP submissions lasts only as long as the area is meeting that standard. No other requirements are unsuspended. The commenter is incorrect in arguing that the determination of attainment would delay implementation of measures needed for attainment of the 1997 8-hour ozone standard, and that it would relax SIP control measures. This action has no effect on control measures, or air quality, in the area. For example, contrary to commenter's contention, RACT requirements for the 1997 8-hour ozone standard (or for any other standard), are not suspended or delayed by this determination, nor by 40 CFR 51.918. In sum, no evaluation under section 110(l) is required by law, and even if such an evaluation were required, EPA would conclude that this determination of attainment would not interfere with attainment, reasonable further progress towards attainment, or any other applicable requirement of the CAA.

IV. Final Action

EPA has determined that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS based on 2007 to 2009 complete, quality-assured, and certified ambient air quality monitoring data. Data in AQS for 2010 are consistent with continued attainment. As provided in 40 CFR 51.918, this determination suspends the requirements for the Commonwealth of Pennsylvania to submit, for the Pittsburgh Area, an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS as long as the area continues to attain the 1997 8-hour ozone NAAQS.

This action is not a redesignation. The Pittsburgh Area will remain designated nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan.

V. Statutory and Executive Order Reviews

This action makes a determination of attainment based on air quality and results in the suspension of certain
Federal requirements, and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these actions and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 23, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

§ 52.2037 Control strategy plans for attainment of the 1997 8-hour ozone NAAQS for the Pittsburgh-Beaver Valley 8-hour ozone nonattainment area, this determination shall no longer apply.

[FR Doc. 2011–13275 Filed 5–27–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Alabama, Georgia, and Tennessee: Chattanooga; Determination of Attaining Data for the 1997 Annual Fine Particulate Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has determined that the Chattanooga, Tennessee-Georgia, fine particulate (PM_{2.5}) nonattainment area (hereafter referred to as “the Chattanooga Area” or “Area”) has attained the 1997 annual average PM_{2.5} National Ambient Air Quality Standard (NAAQS). The Chattanooga Area is comprised of Hamilton County in Tennessee, Catoosa and Walker Counties in Georgia, and a portion of Jackson County in Alabama. This determination of attainment is based upon quality-assured and certified ambient air monitoring data for the 2007–2009 period showing that the Area has monitored attainment of the 1997 annual PM_{2.5} NAAQS. The requirements for the Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Pittsburgh Area for as long as the area continues to meet the 1997 8-hour ozone NAAQS. If a violation of the 1997 8-hour ozone NAAQS is monitored in the Pittsburgh-Beaver Valley 8-hour ozone nonattainment area, this determination shall no longer apply.