authority delegated by the Secretary of the Navy, has certified that USS KINGFISHER (MHC 56) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 27(f), pertaining to the display of all-round lights by a vessel engaged in mineclearance operations; and Annex I, paragraph 9(b), prescribing that all-round lights be located as not to be obscured by masts, topmasts or structures within angular sectors of more than six degrees. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Section 706.2 is amended by adding the following ship to Table Four, paragraph 18:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obscured angles relative to ship's heading	
		Port	STBD
Kingfisher.	MHC 56	59.5° to 78.3°.	281.7° to 300.5°.

Dated: June 25, 1996.

Approved.

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 96–17498 Filed 7–9–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 95–054]

RIN 2115–AF17

Regattas and Marine Parades; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to interim rule.

SUMMARY: This notice contains corrections to the interim rule (CGD 95–054) revising Coast Guard marine event regulations that was published Wednesday, June 26, 1996, (61 FR 33027).

EFFECTIVE DATE: July 10, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Perry, Office of Boating Safety, (202) 267–0979.

SUPPLEMENTARY INFORMATION: In § 100.19, Chief, Operations, is incorrectly referred to as ''the Chief, Office of Operations.''

Accordingly, the publication on June 26, 1996, of the interim rule (CGD 95–054) that is the subject of FR Doc. 96–16319 is corrected as follows:

§ 100.19 [Corrected]

1. On page 33033, in the second and third columns, remove the words ''the Chief, Office of Operations'' wherever they appear and add, in their place, the words ''Chief, Operations,''.

J. A. Creech,

Captain, U.S. Coast Guard, Director, Operations Policy.

[FR Doc. 96–17565 Filed 7–9–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5536–1]

Final Rule Making Findings of Failure To Submit Required State Implementation Plans for Nonattainment Areas for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action in making findings, under the Clean Air Act (CAA or Act), that 10 states and the District of Columbia failed to make complete ozone nonattainment state implementation plans (SIP) submittals required for 9 nonattainment areas under the Act. Under certain provisions of the Act, as implemented consistent with a memorandum issued by EPA Assistant Administrator Mary D. Nichols, on March 2, 1995, these states are required to submit SIP measures providing for certain percentage reductions in emissions of ozone precursors, termed ''rate of progress'' reductions; as well as SIP commitments to submit SIP measures providing for the remaining required rate-of-progress reductions as well as any additional emissions reductions needed for attainment of the ozone ambient air quality standards in the affected nonattainment areas.

This action triggers the 18-month time clock for mandatory application of sanctions in theses states under the Act. This action is consistent with the CAA mechanism for assuring SIP submission.

EFFECTIVE DATE: This action is effective as of July 3, 1996.

FOR FURTHER INFORMATION CONTACT: General questions concerning this notice should be addressed to Kimber Scavo, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711; tel. (919) 541–5534. For questions related to a specific area, please contact the appropriate regional office:

Dave Conroy, Manager, Air Quality Planning Unit, EPA Region I (CAQ), JFK Federal Building, Boston, Massachusetts 02203–2211, tel. (617) 565–3255 (Connecticut, New Hampshire)

William S. Baker, Chief, Air Programs Branch, EPA Region II (2AWM–AP); 290 Broadway, New York, New York 10007–1866, tel. (212) 637–4249 (New York, New Jersey)

Marcia Spink, Associate Director, Air, Toxics and Radiation Division, EPA Region III (3AT00), 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, tel. (215) 566–2104 (Delaware, Maryland, Virginia, District of Columbia)

Steven Rothblatt, Branch Chief, Air Programs Branch, EPA Region V (AR–18J); 77 West Jackson Blvd., Chicago, IL 60604–3590, tel. (312) 353–2211 (Illinois, Indiana, Wisconsin)

SUPPLEMENTARY INFORMATION:

I. Background

In 1990, Congress amended the Clean Air Act to address, among other things, continued nonattainment of the ozone national ambient air quality standard (NAAQS). Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C., 7401–7671q (1991). The Amendments divide ozone nonattainment areas into, in general, five classifications based on air quality

design value; and establish specific requirements, including new attainment dates, for each classification. CAA §§ 107(d)(1)(C) and 181.

The 1990 Amendments required states containing the highest classified ozone nonattainment areas—those classified as serious, severe, or extreme—to submit SIPs providing for periodic reductions in ozone precursors of a rate of 9% averaged over every three-year period, beginning after 1996 and ending with the area's attainment date. CAA § 182(c)(2)(B). This SIP submission may be referred to as the Rate-of-Progress, or ROP, SIP. The 1990 Amendments further required these states to submit a demonstration of attainment (including air quality modeling) for the nonattainment area, as well as SIP measures containing any additional reductions that may be necessary to attain by the attainment date. CAA § 182(c)(2)(A). This SIP submission may be referred to as the Attainment Demonstration. These CAA provisions established November 15, 1994, as the required date for these SIP submittals.

Notwithstanding significant efforts, the states generally were not able to meet this November 15, 1994 deadline for the required SIP submissions.

On March 2, 1995, EPA Assistant Administrator Mary D. Nichols sent a memorandum to EPA Regional Administrators (the March 2, 1995 Memorandum, or Memorandum) recognizing the efforts made by states and the remaining difficulties in making the ROP and Attainment Demonstration SIP submittals. The March 2, 1995 Memorandum recognized that in general, many States have been unable to complete these SIP requirements within the deadlines prescribed by the Act due to circumstances beyond their control. These states were hampered by unavoidable delays in developing the underlying technical information needed for the required SIP submittals. The Memorandum recognized that development of the necessary technical information, as well as the control measures necessary to achieve the large level of reductions likely to be required, is particularly difficult for the many states affected by ozone transport.

Accordingly, as an administrative remedial matter, the March 2, 1995 Memorandum indicated that EPA would establish new time-frames for SIP submittals. The Memorandum called for States seeking to avail themselves of the new policy to submit, by May 1995, a letter committing to the new time-frames.

The Memorandum further indicated that EPA would divide the required SIP submittals into two phases. The Phase I submittals generally consisted of (i) SIP measures providing for ROP reductions due by the end of 1999 (the first 9% of ROP reductions); (ii) a SIP commitment (sometimes referred to as an enforceable commitment) to submit any remaining required ROP reductions on a specified schedule after 1996 (with submission no later than the end of 1999); and (iii) a SIP commitment to submit the Attainment Demonstration by mid-1997 (with submission by no later than the end of 1999 of any additional rules needed to attain).[1] The Memorandum indicated that EPA would establish the end of 1995 as the due date for the Phase I submittals. States could have proposed a schedule for making the submissions in 1996 if necessary due to administrative scheduling imperatives (such as the schedule for legislative sessions).

The Phase II submittals were due at specified times after 1996, and primarily consisted of the remaining ROP SIP measures, the Attainment Demonstration and required additional rules, and any regional controls necessary for attainment by all areas in the region.

In addition, the March 2, 1995 Memorandum called for a collaborative process among the States in the eastern half of the country to evaluate and address transport of ozone and its precursors. The Memorandum lead to the formation of the Ozone Transport Assessment Group (OTAG), which includes representatives of those states; EPA officials; and interested members of the public, including environmental groups and industry. As indicated in the Memorandum, EPA has envisioned that OTAG would complete its work by the end of 1996.

The March 2, 1995 Memorandum was widely circulated, and by June 1995, states opting for the time-frames it described had submitted letters to EPA generally committing to submit the SIP measures called for under the Memorandum.

OTAG's first meetings were on May 18, 1995, in Reston, Virginia, and June 19, 1995, in Washington, D.C. OTAG has continued to meet regularly since then.

By the first few months of 1996, some states appeared to be lagging in their compliance efforts with the Phase I deadlines. By memorandum dated April 19, 1996, Assistant Administrator Nichols directed the Regional Administrators to determine the status of the state planning efforts to allow EPA to determine which states were or were not in substantial compliance with the Phase I deadlines. By letters dated in May 1996, EPA Regional Administrators informed the states that it was important that they complete the Phase I submittals as soon as possible, and requested that they provide EPA with a schedule for completing these submittals. These letters cautioned that EPA would, within the near future, evaluate the states' schedule; and that if EPA considered the schedule insufficiently expeditious, EPA would consider beginning the process under CAA section 179(a)(1), described below, of sanctioning states that fail to make required submittals.

The EPA regional offices and state officials discussed the states' progress, and the states generally developed schedules for completing the Phase I requirements.

Although EPA recognizes the continued progress states are making in developing the required SIPs, EPA believes that in most cases, the schedules presented by the states are not sufficiently expeditious for the states to be considered in substantial compliance with the Phase I deadlines.

The 1990 Amendments establish specific consequences if EPA finds that a State has failed to meet certain requirements of the CAA. Of particular relevance here is CAA section 179(a)(1), the mandatory sanctions provision. Section 179(a) sets forth four findings that form the basis for application of a sanction. The first finding, that a State has failed to submit a plan or one or more elements of a plan required under the CAA, is the finding relevant to this rulemaking.

Today, EPA is finding that 10 States and the District of Columbia have failed to make required SIP submissions for 9 nonattainment areas.

If these States have not made the required complete submittals within 18 months of the effective date of today's rulemaking, pursuant to CAA section 179(a) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b) will be applied in the affected areas. If the States have still not made a complete submission 6 months after the offset sanction is imposed, then the highway funding sanction will apply in the affected areas, in accordance with 40 CFR 52.31. In addition, CAA section 110(c) provides that EPA promulgate a federal implementation plan (FIP) no later than 2 years after a finding under section 179(a).

[1] The March 2, 1995 Memorandum established other requirements, and somewhat different requirements for states other than the Northeast states. These are described in greater detail in the enclosures to the findings letters, discussed below, which are included in the docket to this rulemaking.

The 18-month clock will stop and the sanctions will not take effect if, within 18 months after the date of the finding, EPA finds that the State has made a complete submittal as to each of the SIP elements for which these findings are made. In addition, EPA will not promulgate a FIP if the State makes the required SIP submittal and EPA takes final action to approve the submittal within 2 years of EPA's finding.

At approximately the same time as the signing of this notice, EPA Regional Administrators are sending letters to the 11 States describing the status of the states' effort and these findings in more detail. These letters, and the enclosures that they include, are included in the docket to this rulemaking.

I. Final Action

A. Rule

Today, EPA is making findings of failure to submit for 9 nonattainment areas in 10 states and the District of Columbia, due to failure to submit complete SIP revisions consisting of the following three items: (i) A SIP provision requiring emission reductions of 9% in ozone precursors from the end of 1996 to 1999; (ii) SIP commitments to adopt an Attainment Demonstration; and (iii) SIP commitments to adopt any additional rules needed to complete the requirements for ROP reductions after 1999, and until the attainment date.

The states, nonattainment areas (and classification of the nonattainment areas) that are receiving these findings are listed below. Each state is receiving all three findings for each of its areas, except that states with areas classified as serious are receiving only the first two findings. Serious areas have an attainment date of 1999, and thus are not required to submit ROP SIPs after 1999.

Connecticut: Greater CT Area (serious); New York-Northern New Jersey-Long Island, NY–NJ–CT, Area (severe).
New Hampshire: Boston-Lawrence-Worcester, MA–NH, Area (serious); Portsmouth-Dover-Rochester, NH, Area (serious).
New Jersey: New York-Northern New Jersey-Long Island, NY–NJ–CT, Area (severe); Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD, Area (severe).
New York: New York-Northern New Jersey-Long Island, NY–NJ–CT, Area (severe).
Delaware: Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD, Area (severe).
Maryland: Baltimore Area (severe); Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD, Area (severe); Washington, DC–MD–VA, Area (serious).
Virginia: Washington, DC–MD–VA, Area (serious).
District of Columbia: Washington, DC–MD–VA, Area (serious).
Illinois: Chicago-Gary-Lake County, IL–IN, Area (severe).
Indiana: Chicago-Gary-Lake County, IL–IN, Area (severe).
Wisconsin: Milwaukee-Racine, Area (severe).

B. Effective Date Under the Administrative Procedures Act

EPA has issued this action as a rulemaking because EPA has treated this type of action as rulemaking in the past. However, EPA believes that it would have the authority to issue this action in as an informal adjudication, and is considering which administrative process—rulemaking or informal adjudication—is appropriate for future actions of this kind.

Because EPA is issuing this action as a rulemaking, the Administrative Procedures Act (APA) applies.

Today's action will be effective on July 3, 1996. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the Federal Register if the agency has good cause to mandate an earlier effective date. Today's action concerns SIP submissions that are already overdue; and EPA previously cautioned the affected states that the SIP submissions were overdue and that EPA was considering the action it is taking today. In addition, today's action simply starts a ''clock'' that will not result in sanctions against the states for 18 months, and that the states may ''turn off'' through the submission of complete SIP submittals. These reasons support an effective date prior to 30 days after the date of publication.

C. Notice-and-Comment Under the Administrative Procedures Act

This notice is a final agency action, but is not subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). EPA believes that because of the limited time provided to make findings of failure to submit and findings of incompleteness regarding SIP submissions or elements of SIP submission requirements, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure to submit elements of SIP submissions required by the Clean Air Act. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert agency resources from the critical substantive review of complete SIPs. See 58 FR 51270, 51272, n.17 (Oct. 1, 1993); 59 FR 39832, 39853 (Aug. 4, 1994).

D. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

E. Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector; or to State, local, or tribal governments in the aggregate.

In addition, under the Unfunded Mandates Act, before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must have developed, under section 203 of the UMRA, a small government agency plan.

EPA has determined that today's action is not a Federal mandate. The various CAA provisions discussed in this notice require the states to submit SIPs. This notice merely provides a finding that the states have not met those requirements. This notice does not, by itself, require any particular action by any State, local, or tribal government; or by the private sector.

For the same reasons, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact on small entities of any rule subject to the notice-and-comment rulemaking requirements. Because this action is exempt from such requirements, as described above, it is not subject to the RFA.

G. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the APA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA submitted, by the effective date of this rule, a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office. This rule is not a ''major rule'' as defined by APA § 804(2), as amended.

As noted above, EPA is issuing this action as rulemaking. There is a question as to whether this action is a rule of ''particular applicability'', under section 804(3)(A) of APA as amended by SBREFA—and thus exempt from the congressional submission requirements—because this rule applies only to named states. In this case, EPA has decided to err on the side of submitting this rule to Congress, but will continue to consider this issue of the scope of the exemption for rules of ''particular applicability''.

H. Paperwork Reduction Act

This rule does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

I. Judicial Review

Under CAA Section 307(b)(1), a petition to review today's action may be filed in the Court of Appeals for the District of Columbia within 60 days of July 10, 1996.

Dated: July 3, 1996.

Mary D. Nichols,

Assistant Administrator.

[FR Doc. 96–17545 Filed 7–9–96; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 63

[AD–FRL–5531–3]

Approval of State Programs and Delegation of Federal Authorities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action revises the ''Approval of State Programs and Delegation of Federal Authorities'' (subpart E). The amendments are being made to clarify regulatory text, reduce administrative burden and provide more flexibility to States using this rulemaking. Additionally, today's action does not have any environmental impact. As a result, the Agency does not anticipate receiving adverse comments. Consequently, the amendments are being issued as a direct final rule.

DATES: The direct final rule will be effective August 19, 1996 unless significant, adverse comments are received by August 9, 1996. If significant, timely adverse comments are received on the direct final rule, the direct final rule will be withdrawn.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–96–09, Room M–1500, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert Wood at (919) 541–5272 or Ms. Sheila Q. Milliken at (919) 541–2625, Integrated Implementation Group, Information Transfer and Program Integration Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this action are State, local, or tribal governments that voluntarily implement Clean Air Act (Act) section 112 rules, emission standards, or requirements. This action does not regulate emission sources directly. Regulated categories and entities include:

Category	Examples of regulated entities
State, local, tribal governments.	State, local, or tribal governments that voluntarily request approval of rules or programs to be implemented in place of Act section 112 rules, emission standards or requirements or voluntarily request delegation of unchanged section 112 rules.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. The existing procedures and criteria for requesting and receiving approval of these State, local, or tribal government rules or programs or voluntarily requesting delegation of unchanged section 112 rules are in sections 63.90 through 63.95 of this subpart.

On November 26, 1993 (58 FR 62262), the EPA promulgated in the Federal Register guidance relating to the approval of State programs and delegation of Federal authorities under the authority of section 112(l) of the Act. Section 112(l)(2) of the Act requires the EPA to publish guidance useful to States in developing programs for implementing and enforcing emission standards and other requirements for hazardous air pollutants (HAP). The use of delegation under section 112(l) is voluntary on the part of the States. The regulations were promulgated as subpart E in 40 CFR part 63.

Today's action modifies the subpart E final regulation to improve clarity of administrative procedures and eliminate unnecessary and, in some cases, impractical requirements imposed on the States. Today's changes do not significantly modify the requirements of the regulation. The revisions are discussed in the order in which they appear in the subpart E regulation. If timely significant adverse comments are received on any amendment of this direct final rule, that amendment of the direct final rule will be withdrawn and all such comments will be addressed in a subsequent final rule based on the proposed rule contained in the proposed rules section of this Federal Register that addresses issues in this direct final rule. If no timely significant adverse comments are received on this direct final rule, then the direct final rule will become effective August 19, 1996 and no further action is contemplated on the parallel proposal published today.

Preamble Outline

The following outline is provided to aid in locating information in this preamble.

I. Description of Changes
- A. Approval of State Mechanism to Receive Delegation of Existing and Future Unchanged Federal Section 112 Standards and Requirements
- B. Deletion of 6-month Reporting Requirement
- C. Additional Language Regarding Implementation of Chemical Safety Hazard Investigation Board Requirement
- D. Approval of State Rules and Programs Designed to Limit Potential to Emit (PTE)

II. Unfunded Mandates Reform Act

III. Administrative
- A. Paperwork Reduction Act
- B. Executive Order 12866 Review
- C. Regulatory Flexibility Act
- D. Submission to Congress and the General Accounting Office