

Chapter II (Inspections, Reporting, Tests and Monitoring), § 202 (Reporting Requirements). This revision was submitted to EPA by the Commonwealth of Pennsylvania on December 31, 1992.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective June 3, 1996 unless, by May 2, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 3, 1996.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision of any SIP. Each request for revision to the SIP 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 CAA 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 CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the

economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410 (a) (2).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as 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.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 action approving Pennsylvania's Emission Statement Program 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Volatile organic compounds, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Dated: February 2, 1996.

W. T. Wisniewski,
Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(97) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(97) Revisions to the Pennsylvania State Implementation Plan submitted by the Secretary, Pennsylvania Department of Environmental Protection on December 31, 1992.

(i) Incorporation by reference.

(A) Letter dated December 31, 1992 from the Secretary, Pennsylvania Department of Environmental Protection, submitting a revision to the Allegheny County portion of the Pennsylvania State Implementation Plan.

(B) Addition of new section E to the Allegheny County Health Department-Bureau of Air Pollution Control (ACHD) Rules and Regulations, Article XX, Chapter II (Inspections, Reporting, Tests and Monitoring), § 202 (Reporting Requirements) were effective on October 8, 1992. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_x) at or above specified actual emission threshold levels. This program applies to stationary sources within the county of Allegheny.

(ii) Additional material.

(A) Remainder of December 31, 1992 state submittal pertaining to Pennsylvania Emission Statement Program.

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[FR Doc. 96-7913 Filed 4-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[TX-59-1-7268; FRL-5451-1]

Designation of Areas for Air Quality Planning Purposes; State of Texas; Correction of the Design Value and Classification for the Beaumont/Port Arthur Ozone Nonattainment Area**AGENCY:** U.S. Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: This document announces the Administrator's decision to correct the design value and classification of the Beaumont/Port Arthur ozone nonattainment area. The Beaumont/Port Arthur area (the area) was classified as a serious ozone nonattainment area by EPA on November 6, 1991. However, EPA has determined that the ozone design value of 0.160 parts per million (ppm) published by EPA and used in classifying the area as a serious ozone nonattainment area was incorrect. The correct monitored ozone design value was 0.158 ppm. This design value falls within the range of values considered as moderate nonattainment for ozone under the Clean Air Act Amendments of 1990 (CAAA). Pursuant to section 110(k)(6) of the CAAA, which allows EPA to correct its actions, EPA is today publishing the correct design value of 0.158 ppm and is granting the State's request to correct the classification of the area from serious to moderate.

EFFECTIVE DATE: This action will become effective on June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Air Planning Section (6PD-L), U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7219.

SUPPLEMENTARY INFORMATION:**Background**

Prior to the CAAA, EPA identified and designated nonattainment areas with respect to the National Ambient Air Quality Standards (NAAQS). For such areas, States submitted State Implementation Plans (SIPs) to control emissions and achieve attainment of the NAAQS. The Beaumont/Port Arthur area, initially comprised of Jefferson and Orange Counties, was originally designated as nonattainment for ozone on March 3, 1978 (43 FR 8962). Hardin County is part of the area's Metropolitan Statistical Area, and as such was included in the Beaumont/Port Arthur area with Jefferson and Orange Counties on November 6, 1991 (56 FR 56694). The SIP for the area was first adopted in the early 1970's.

Under the CAAA, the area retained its designation of nonattainment and was classified as serious by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAAA. See 56 FR 56694 (November 6, 1991). This classification was required to be based on the design value for the area. The monitored design value was rounded to two decimal places by the State and reported to EPA as 0.16 ppm. Section 179B defines the ranges of design values associated with each classification. Moderate areas were defined by design values from 0.138 ppm to 0.160 ppm. Serious areas were defined by design value ranges from 0.160 ppm to 0.180 ppm.

Since the reported design value for the area made it difficult to determine the classification, the design value of a special purpose monitor was used to assist EPA in determining whether the area should be classified as moderate or serious. This special purpose monitor had a design value of 0.180 ppm, which lead EPA to believe that the serious classification was more appropriate. The EPA published the design value as 0.160 ppm in its November 6, 1991 Federal Register document, and classified the area as serious. The Texas Natural Resource Conservation Commission recently discovered a data file which allowed the State to recalculate the actual design value of the 4th highest hourly peak ozone concentration at the State-run monitoring site in Beaumont to three decimal places. The actual design value for the May 28, 1989 exceedance has been calculated at 0.158 ppm.

Correction of Error Under Section 110(k)(6)

Section 110(k)(6) of the Act provides whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public. The EPA interprets this provision to authorize the Agency to make corrections to a promulgation when it is shown to EPA's satisfaction that an error occurred in failing to consider or inappropriately considering information available to EPA at the time of the promulgation, or the information made available at the time of

promulgation is subsequently demonstrated to have been clearly inadequate.

The EPA's initial action classifying the Beaumont/Port Arthur area was based on an ozone design value obtained from the State monitoring network of 0.16 ppm, along with consideration of some data from a special purpose monitor. The design value submitted to EPA by the State at the time the classification was promulgated has subsequently been proven to be inadequate. A corrected design value of 0.158 ppm obtained from the State monitoring network during the initial classification timeframe has recently been submitted to EPA by the State and deemed accurate.

Further, the EPA has since determined that data from the special purpose monitor (SPM) should not have been used for classification purposes since 1) the SPM is not part of the State monitoring network, 2) the data from this monitor are for research purposes, 3) these data are not reported to EPA's Aerometric Information Retrieval System, and 4) the SPM data used to assist in making the original design value determination were collected in 1990, outside of the 1987-1989 timeframe generally associated with classification determinations.

Final Action

In the Federal Register of November 6, 1991 (56 FR 56694), EPA issued a final rule promulgating the designations, boundaries, and classifications of ozone nonattainment areas (and for nonattainment areas for other pollutants not addressed in this action). Accordingly, in today's action, EPA is correcting this error by publishing the correct design value of 0.158 ppm for the Beaumont/Port Arthur area, and correcting the classification of the area from serious to moderate for ozone in accordance with section 110(k)(6). In accordance with CAAA sections 107(d)(2)(B), and 110(k)(6), this document is a final publication of the ozone design value for the Beaumont/Port Arthur area and the classification of the area to a moderate ozone nonattainment area, and is not subject to the notice and comment provisions of sections 553 through 557 of Title 5. Designation of Areas for Air Quality Planning Purposes; State of Texas; Correction of the Design Value and Classification for the Beaumont/Port Arthur Ozone Nonattainment Area (Page 6 of 7).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 26, 1996.
 Carol M. Browner,
Administrator.
 40 CFR part 81 is amended as follows:

Authority: 42 U.S.C. 7401-7871q.

2. In § 81.344, the ozone table is amended by revising the entry for the Beaumont/Port Arthur Area to read as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

§ 81.344 Texas.
 * * * * *

TEXAS—OZONE

| Designated area | Designation | | Classification | |
|----------------------------|-------------------|---------------------|-------------------|-----------|
| | Date ¹ | Type | Date ¹ | Type |
| Beaumont/Port Arthur Area: | | | | |
| Hardin County | | Nonattainment | | Moderate |
| Jefferson County | | Nonattainment | | Moderate |
| Orange County | | Nonattainment | | Moderate |
| * * * * * | * * * * * | * * * * * | * * * * * | * * * * * |

¹ This date is November 15, 1990, unless otherwise noted.

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 [FR Doc. 96-8003 Filed 4-1-96; 8:45 am]
 BILLING CODE 6560-50-P

40 CFR Part 167
 [OECA; FRL-5451-8]
Pesticide Reports for Pesticide-Producing Establishments (EPA Form 3540-16); Additional Time to Report
AGENCY: Environmental Protection Agency (EPA).
ACTION: Correction.

SUMMARY: In Federal Register Volume 61, No. 43, appearing on pages 8221 and 8222 in the issue of Monday, March 4, 1996, make the following correction to the date for reporting 1995 annual pesticide production information.

On page 8221, in the third column, under **DATES:** should be changed to read: "Annual pesticide production reports for the calendar year 1995 will not be due until two (2) months after the reporting packages are mailed out. A subsequent Federal Register notice will announce the mail out date and will establish the due date for submission of the 1995 reports."

FOR FURTHER INFORMATION CONTACT: Carol L. Buckingham, (202) 564-5008, fax (202) 564-0085, Environmental Protection Agency, Mail Code 2225A, 401 M Street SW., Washington, D.C. 20460.

Dated: March 26, 1996.
 Sylvia K. Lowrance,
Acting Assistant Administrator, Office of Enforcement and Compliance Assurance.
 [FR Doc. 96-8002 Filed 4-1-96; 8:45 am]
 BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7637]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and

administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory