interests in corporations as stock or indebtedness. Final regulations under section 385 were published in the Federal Register for Wednesday, December 31, 1980 (45 FR 86438). These regulations generally would have applied to certain interests in corporations created after April 30, 1981. However, at the invitation of the Treasury and Internal Revenue Service, several public comments on the final regulations were received after December 31, 1980. The comments have recommended changes in several areas of these regulations. In order for the Treasury and Internal Revenue Service to have sufficient time to fully examine these comments and determine whether changes should be made, the regulations are being amended to apply to certain interests in corporations only if they are created after December 31, 1981. Additionally, it is anticipated that the December 29, 1980, date in the bankruptcy and binding written contract exceptions of § 1.385-1(a)(2) will be extended to an as yet undetermined future date. This date will not be earlier than the date that either changes in the regulations are announced (through the issuance of proposed regulations or otherwise) or it is announced that there will be no such changes.

Drafting Information

The principal author of this regulation is Jack A. Levine of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Waiver of Certain Procedural Requirements of Final Treasury Directive

A determination has been made by Roscoe L. Egger, Jr., Commissioner of Internal Revenue, that there is need for an immediate amendment to the regulations under section 385 of the Code in order to postpone the May 1, 1981, effective date of the regulations. Because of the immediate need for this regulation, compliance with the procedural requirements of paragraphs 8 through 14 of the final Treasury directive (43 FR 52121), relating to improving regulations, would be impractical, and therefore, these requirements have not been followed.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Paragraph (a)(1) of § 1.385-1 is revised to read as follows:

§ 1.385-1 Stock or indebtedness.

(a) *Effective date*—(1) *In general.* The regulations under section 385 apply to instruments (as defined in § 1.385-3(c)) and preferred stock issued after December 31, 1981, and to loans described in § 1.385-7 and guaranteed loans made after December 31, 1981.

* * * * *

§ 1.385-6 [Amended]

Par. 2. The date "December 31, 1981" is removed each time it appears in example (3) of paragraph (g) (4) of § 1.385-6 and the date "December 31, 1982" is inserted in lieu thereof.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 385 and 7805 of the Internal Revenue Code of 1954 (83 Stat. 613 and 68A Stat. 917; 26 U.S.C. 385 and 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 29, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 81-13402 Filed 4-29-81; 4:10 pm]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1791-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On December 18, 1979 (44 FR 74861), EPA proposed to approve as a revision to the Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) revised emission limitations for the Toledo Edison Company's Acme, Bay Shore, and Water Street Stations located in Lucas County, Ohio. As a result of EPA's review of the modeling data submitted for this revision, EPA has determined that the federal Ohio SO_2 SIP for Lucas County is not adequate to ensure attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for SO_2. In contrast to the existing federal plan, the revision represents a considerable reduction in emissions at two stations (Acme and Water Street) and an increase in emissions at the third station (Bay Shore). Therefore the revision results in an overall reduction of emissions from the three Toledo Edison stations located in Lucas County. EPA today takes final action to approve the revised emission limitations as interim emission limitations for the Toledo Edison Company until a Part D plan is approved for Lucas County.

In a separate notice published elsewhere in today's Federal Register, EPA proposes to disapprove the sulfur dioxide plan for Lucas County submitted by the State of Ohio on September 12, 1979 (the State plan is essentially identical to the existing federal plan). In that notice, EPA calls on the State to submit a control strategy that demonstrates attainment and maintenance of the NAAQS for Lucas County as required under Part D of the Clean Air Act.

EFFECTIVE DATE: May 4, 1981.

ADDRESSES: The docket #5A-79-6 for the revision is available for inspection and copying during normal business hours at Region V, 230 South Dearborn Street, Chicago, Illinois 60604, and at EPA Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Regulatory Analysis Section, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, 312-886-6088.

SUPPLEMENTARY INFORMATION: On May 31, 1977 (42 FR 27588) the EPA promulgated regulations establishing a State Implementation Plan (SIP) for the control of sulfur dioxide (SO_2) for the Toledo Edison Acme, Water Street, and Bay Shore Stations in Lucas County, Ohio. On July 27, 1978, Toledo Edison requested a revision to the SO_2 emission limitations for these three stations. That request was accompanied by a dispersion modeling study which had been performed by the Company's consultant using EPA's Urban RAM Model. After reviewing this study, EPA requested further technical documentation from Toledo Edison in support of the revision request.

The revision includes two important changes in plant operating configuration. First, due to structural deterioration, a 83.8 meter stack at Acme was reduced to 68.6 meters. This 68.6 meter stack at Acme was found to be in compliance with EPA's good engineering practice (GEP) stack height formula (see EPA's proposed stack height regulations, 44 FR 2608, January 12, 1979).

Second, a new stack was installed at the Bay Shore Station. This single 144.8 meter stack went into operation with all four units on January 18, 1981 replacing the four 76.8 meter stacks. The stack was modeled at 117.4 meters, the stack height credit calculated based on the GEP stack height formula.

An annual modeling analysis was performed with the same model (CDM) that was used by the EPA and a five year (1973–1977) climatological summary of the Toledo/Flint meteorological data. Only the Toledo Edison sources were modeled (under both the EPA and the Toledo Edison strategies) in order to determine the relative effect of the proposed strategy. The emissions inventory consisted of annual average operating rates from a representative recent year (1976) and plant configurations consistent with the appropriate strategy (i.e., new stacks at Acme and Bay Shore for the Toledo Edison strategy and existing stacks at Acme and Bay Shore for the EPA strategy).

A short-term modeling analysis was performed with the same model (RAM-urban) that was used by the EPA and five years (1973–1977) of hourly sequential Toledo/Flint meteorological data. In addition, while the EPA divided Lucas County into four distinct regions and modeled each separately, Toledo Edison modeled Lucas County as a whole.

The short-term emissions inventory for the Toledo Edison sources is similar to that modeled by the EPA, except for the revised SO_2 emissions and the modified stack heights at Acme and Bay Shore. As for the other point sources, the individual companies were contacted to up-date the EPA emissions inventory. Background was accounted for with a complete area source inventory for Lucas County.

The results of the modeling analysis predicted substantial violations of the 24-hour and 3-hour NAAQS in Lucas County and thus demonstrated that the existing federal plan for Lucas County does not ensure the attainment and maintenance of the NAAQS. Additionally, the results of the modeling indicate that under both the original federal emission limits and the revised emission limits, the toledo Edison plants significantly contribute to violations of the short-term NAAQS. [Note, the significant levels are defined as follows: 1 $\mu g/m^3$ (annual), 5 $\mu g/m^3$ (24-hour), and 25 $\mu g/m^3$ (3-hour).]

The table below shows the Toledo Edison Company's contribution to the largest violations under the old limits and the new revised limits. Although not shown in the table, the Toledo Edison modeling demonstrated that the revised emission limitations for the Toledo Edison Company do not significantly exacerbate any predicted nonattainment problems. That is, the impacts under the new limits are either less than or not significantly greater than those under the existing EPA Limits.

Total Short-Term Concentrations ($\mu g/m^3$) [1]

Year	Receptor No.	2d high 24-hour: Old limits	(TEC) [2]	New limits	(TEC) [2]	2d high 3-hour	Old limits: (TEC) [2]	New limits	(TEC) [2]
1973	113	1,167	(72)	1,148	(53)	1,778	(56)	1,794	(72)
	80	901	(74)	870	(43)	1,691	(109)	1,642	(60)
1974	113	1,095	(39)	1,091	(35)	1,675	(36)	1,678	(38)
	80	1,068	(60)	1,049	(41)	1,669	(31)	1,661	(23)
1975	113	770	(52)	748	(30)	1,741	(58)	1,754	(72)
	80	893	(42)	875	(24)	1,682	(96)	1,636	(50)
1976	113	726	(27)	721	(23)	1,685	(168)	1,597	(80)
	80	696	(64)	670	(37)	1,644	(78)	1,622	(56)
1977	113	845	(41)	830	(26)	1,687	(52)	1,687	(53)
	80	752	(40)	737	(25)	1,724	(126)	1,666	(68)

[1] Concentrations are the top two second high impacts for each year of meteorological data. Toledo Edison contributions are shown in parentheses. It should be noted that numerous other violations were predicted.

[2] Toledo Edison Company (TEC)—Combined contributions from Acme, Water Street, and Bay Shore. Contributions under the old limits are scaled from the modeling of the new stack heights and are, thus, likely to be underestimates.

The Toledo Edison revised emission limitations being published today will result in an improvement in the air quality in Lucas County. In contrast to the existing federal plan, the revision represents a considerable reduction in emissions at two stations (Acme and Water Street) and an increase in emissions at the third station (Bay Shore). Therefore, the revision results in an overall reduction of emissions from the three Toledo Edison stations located in Lucas County. EPA is taking final action today to approve the revised emission limitations for the Toledo Edison Company. However, in a separate notice published elsewhere in today's **Federal Register**, EPA proposes to disapprove the sulfur dioxide plan for Lucas County submitted by the State of Ohio on September 12, 1979. The State's plan cannot be approved since their plan is essentially identical to the existing federal plan which has been determined to be inadequate to attain the NAAQS. In that notice, EPA calls on the State to submit a control strategy that demonstrates attainment and maintenance of the NAAQS in Lucas County. Under Part D of the Clean Air Act Amendments of 1977, the State of Ohio has 12 months from the effective date of that notice to develop an enforceable plan to attain the SO_2 NAAQS. For any changes that are needed in the emission limitations for sources to protect the SO_2 NAAQS in Lucas County, the State must also prescribe a schedule for compliance with the new limits as expeditiously as practicable but in no case later than three and one half years from the date of approval of the plan (Part D of the Clean Air Act, 42 U.S.C. 7502).

EPA's approval of the revised emission limitations for the Toledo Edison Company does not affect the revised county plan requested of the State but rather provides interim emission limitations until the State of Ohio develops and EPA approves an adequate plan for Lucas County.

The December 18, 1979 notice of proposed rulemaking also revised the following regulations relevant to the Toledo Edison Company and these changes are also being finalized today.

(1) The proposed rulemaking revised the wording in Section 52.1881(b)(39)(iii)(B) relating to the Bay Shore peaking unit from "fossil fuel fired steam generating units" to "fossil fuel fired peaking unit" to accurately reflect the nature of the unit. This rewording does not change the intent of the original regulation.

(2) The proposed rulemaking included a new compliance date of April 15, 1980 for the Acme coal-fired units and the Water Street Station steam plant oil-fired units. This revision was premised upon the fact that the new emission limitations for these stations are more stringent than the original limitations promulgated by EPA.

The proposed rulemaking provided a 30 day public comment period. However, in response to requests for an extension of time for the filing of comments, the public comment period was reopened for an additional 30 days.

During the public comment period, only one comment was received. This comment requested that the proposed revision for the Bay Shore Plant be withdrawn until such time as a thorough analysis of lake-shore fumigation is performed. In support of this request, a discussion of lake-induced short-term fumigation effects for the Cleveland Electric Illuminating Company's Avon Lake and Eastlake Plants was submitted. Presently available routine analytical tools for evaluating shoreline fumigation do not provide estimates of sufficient certainly to use in establishing emission limitations. Shoreline fumigation modeling techniques such as those suggested by the commenter provide results that are so uncertain that they cannot be relied upon for establishing emission limits.

In addition to the public comment discussed above, the State of New York filed comments on this SIP revision after the closing of the comment period. The comments alleged that EPA did not adequately consider the interstate transport problem even though there are long range air quality models available. New York also discussed the transport of sulfates and their contribution to primary and secondary TSP NAAQS violations in the State of New York. Finally, New York requested that EPA consider the cumulative impact on New York's air quality of several pending and final sulfur dioxide SIP revisions for sources in Ohio, Indiana, West Virginia and Tennessee.

New York indicated that it also intended its comments to be considered as a § 126 petition. EPA has decided not to respond to New York's comments in the context of this rulemaking as the comments primarily concern the aggregate air quality impact of several sources, rather than the impact of this individual SIP revision. EPA will, however, consider New York's concerns as part of its determination on the § 126 petition. EPA plans to hold a § 126 hearing on New York's petition in the near future.

Based upon the Agency's review of the technical documentation submitted by the Toledo Edison Company and an analysis of the public comment submitted, EPA has determined that promulgation of this SIP will result in an improvement in air quality in Lucas County and therefore is appropriate until such a time that the State of Ohio submits and EPA approves a control strategy that demonstrates attainment and maintenance of the NAAQS for Lucas County.

This revision is effective upon publication. The Administrator finds good cause for making this revision effective immediately since Toledo Edison Company is currently in compliance with this regulation and has requested an immediately effective date.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. Today's action does not constitute a major regulation since it approves revised emission limitations for three facilities of the Toledo Edison Company. The revision requested by the Toledo Edison Company represents a reduction in emissions at two of Toledo Edison's facilities (Acme and Water Street) and an increase in emissions at the third facility (Bay Shore). No additional cost is anticipated to be incurred by the company in meeting with these new limitations. The facilities are currently in compliance with these regulations and have requested an immediate effective date.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110 of the Clean Air Act, as amended 42 U.S.C. § 7410)

Dated: April 15, 1981.

Walter C. Barber,

Acting Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. § 52.1881 is amended as follows by revising paragraphs (b)(39)(iii)(A) and (b)(39)(iii)(B), and by revising paragraphs (b)(39)(vii)(A) and (b)(39)(ix).

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(39) In Lucas County * * *

* * * * *

(iii) The Toledo Edison Company or any subsequent owner or operator of the Bay Shore Station in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Bay Shore Station in excess of the rates specified below:

(A) 834.6 nanograms of sulfur dioxide per joule (1.94 lbs SO_2/MMBTU) actual heat input for the fossil fuel-fired steam generating units burning coal. (B) 215.1 nanograms of sulfur dioxide per joule (0.50 lbs SO_2/MMBTU) actual heat input for the fossil fuel-fired peaking unit burning oil.

* * * * *

(vii) The Toledo Edison Company or any subsequent owner or operator of the Acme Power Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Acme plant in excess or the rates specified below:

(A) 516.2 nanograms of sulfur dioxide per joule (1.20 lbs SO_2/MMBTU) actual heat input for fossil fuel-fired steam generating units burning coal.

* * * * *

(ix) The Toledo Edison Company or an subsequent owner or operator of the Water Street Steam Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Water Street Plant in excess of 430.2 nanograms of sulfur dioxide per joule (1.00 lbs SO_2 per MMBTU) actual heat input.

* * * * *

2. § 52.1882(b) is amended as follows by adding a new subparagraph (8):

§ 52.1882 Compliance schedules.

* * * * *

(b) * * *

(8) Federal compliance schedules for the Toledo Edison Acme Power Plant coal fired units and the Water Street Steam Plant oil fired units is as set forth in § 52.1882(b) except that § 52.1882(b)(4)(iii)(G) is changed, for these units only, as follows: April 15, 1980: Achieve final compliance with the emission limitation of § 52.1881(b) of this chapter, as applicable, and notify the Administrator in writing that such action was taken.

[FR Doc. 81-13507 Filed 5-1-81; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 86

[AMS-FRL-1790-5a]

Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Amendment to High-Altitude Emission Standards for 1982 and 1983 Model Year Light-Duty Motor Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Decision on reconsideration and amendment to final rule.

SUMMARY: On March 6, 1981, Ford Motor Company requested the Environmental Protection Agency (EPA) to reconsider a provision contained in the final 1982–1983 high-altitude regulations published in October 8, 1980, 45 FR 66984. EPA has reconsidered and accordingly amended

the provision, which prohibits the sale of vehicles that meet only high-altitude emissions requirements for principal use in low-altitude areas. The decision on reconsideration and amended rule are published below.

DATES:

Effective date: This amendment to the final rule is effective May 4, 1981.

Comment date: However, EPA will accept comments until (30 days after date of publication). Comments should be submitted to Public Docket No. A-79-14 at the address published below.

ADDRESS: Materials relevant to this rulemaking action are contained in Public Docket No A-79-14 at the U.S. Environmental Protection Agency, Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Gregory J. Dana, Office of Mobile Source Air Pollution Control (ANR-455), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone 202-755-0596.

SUPPLEMENTARY INFORMATION: *Public Comment:* Pursuant to the Administration Procedure Act, 5 U.S.C. 553(b), EPA finds that publishing a notice of proposed rulemaking and receiving public comments before establishing a final amendment is impracticable and contrary to the public interest. This amendment is critical for manufacturers' and their dealers' compliance with the 1982 model year high-altitude regulations, and the 1982 model year is imminent. Substantial delay in promulgation of these amendments could result in severe economic harm to certain dealers, and lost sales for manufacturers, since dealers would be forced to order their inventories under the assumption that the existing prohibitions are effective. EPA will, however, consider comments on this amendment received within 30 days after publication of this notice, including comments on the appropriateness of applying this amendment to 1983 model year vehicles. If, as a result of those comments, additional changes to the regulations are appropriate, EPA will issue a revised final rule applicable for the 1983 model year.

EPA finds good cause to make these amendments effective upon promulgation. In addition to the reasons discussed above, these amendments only relieve restrictions on the regulated industry.

Regulatory Analysis: Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981) requires EPA to initially determine whether a rule that it intends to propose or issue is a major rule and to prepare regulatory impact analyses for all major rules.

EPA has determined that the amendment adopted herein is not a major rule, since it will decrease the economic impact associated with the original rule without significantly affecting the environmental control anticipated in that rule. Accordingly, a Regulatory Impact Analysis is not being prepared for this amendment.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Central Docket Section (see Address).

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to detemine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require regulatory analysis. The revision of the high-altitude regulation established by this rulemaking should reduce the burden of compliance with high-altitude requirements for small entities. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant adverse economic impact on a substantial number of small entities.

This amendment is issued under the authority of Section 202(f)(1), Section 206 and Section 301(a)(1) of the Clean Air Act, as amended, 42 U.S.C. 7521(f)(1), 7525, 7601(a)(1).

Dated: April 8, 1981.

Walter C. Barber,

Acting Administrator.

April 8, 1981.

Mr. Herbert L. Misch,
Vice President, Environmental and Safety Engineering, Ford Motor Company, The American Road, Dearborn, Michigan 48121.

Dear Mr. Misch: I have reviewed Ford Motor Company's (Ford's) March 6, 1981 petition requesting the Environmental Protection Agency (EPA) to modify a provision in the 1982-83 high-altitude regulations published on October 8, 1980 (45 FR 66984). This provision, subsection 86.082-30(a)(4) of title 40 of the Code of Federal Regulations, prohibits, *inter alia*, the sale of vehicles that meet only the high-altitude requirements to customers who will principally use those vehicles in other than designated high-altitude locations. Ford claims that this provision will cause economic hardship to dealers in designated high-altitude locations who sell to both high and low-altitude customers, and that there could be a net beneficial effect, if any, on emissions from high altitude vehicles used in certain low-altitude areas. I have reconsidered the bases for EPA's original determination that sale of high-altitude vehicles for principal use in low altitude areas should be prohibited, and have decided to amend the regulations to delete this provision.

As discussed in the final rules, EPA adopted this provision to avoid a potential increase in NO_x emissions from high altitude vehicles being driven at low altitudes. 45 FR 66984, 66993 (1980). Ford points out that it expects very few customers who will principally use vehicles outside of a designated high-altitude location to purchase high-altitude vehicles, and that such use would normally occur only in areas next to designated high-altitude areas ("fringe" elevations), where NO_x emissions would not be expected to increase to any significant degree, and where HC and CO emissions would actually decrease. Ford also asserts that the current regulations would force certain high-altitude dealers to stock inventories of both low- and high-altitude vehicles in order to take advantage of every sales opportunity, and that dealer trading would be restricted.

EPA had, in fact, initially proposed that the sale of high-altitude vehicles for principal use at low altitude be allowed, so that low-altitude customers, whose principal area of use is close to designated high-altitude locations, would have the option of buying high-altitude vehicles. However, indications that NO_x emissions would increase if this provision were retained, in combination with the expectation that trading between low and high-altitude dealerships would minimize any negative effect on model availability, resulted in a decision that the final rule should require that high-altitude vehicles be sold only for principal use in designated high-altitude areas.

The benefits expected from use of high-altitude vehicles in certain low-altitude areas in terms of improved fuel economy and HC and CO emission reductions distinguish this situation from the sale of low-altitude vehicles for use in designated high-altitude areas. In the latter case, since HC and CO emissions would increase substantially, such sales would defeat the very purpose of the high-altitude regulations. In addition, whereas manufacturers would have an economic incentive to sell low-altitude vehicles for use in designated high-altitude areas due to the lower costs involved in producing low-altitude vehicles, the converse is not true. Therefore, the prohibition on sale of low-altitude vehicles for principal use in designated high-altitude areas prevents a flow of vehicles (from low- to high-altitude areas) that is much more likely to occur than that which might occur in the situation Ford has presented.

Ford's arguments indicate that the economic consequences of the restriction on sale of high-altitude cars for principal use in low-altitude areas have been magnified by the current automotive market situation. I am required under section 202(f)(3)(A) of the Clean Air Act to consider the economic impact upon individual high-altitude dealers in promulgating high-altitude regulations. Ford's arguments are persuasive given the limited incentive for high-altitude dealers to sell high-altitude vehicles to low-altitude customers.

I am also required, under section 202(f)(3)(C) of the Clean Air Act, to consider the likelihood that high altitude regulations will result in significant improvements in air quality in any area to which such regulations apply. Given the relative lack of information available to show that there would be a significant adverse effect on NO_x emissions if this restriction were removed,[1] and the potential beneficial effects on HC and CO emissions, it appears that this restriction would not result in a significant improvement in air quality. Balancing this with the potential adverse economic consequences upon individual high-altitude dealers, I have decided to grant Ford's petition.[2]

We believe that there is good cause for dispensing with the requirements of notice and opportunity for comment on this amendment, and plan to publish the revision as a final rule, effective upon promulgation. While it is not clear whether this action may be treated as an emergency rule under the recently issued Executive Order concerning promulgation and review of Federal regulations, we will make every effort to expedite this matter.

Sincerely yours,

Walter C. Barber,

Acting Administrator.

cc: Drew Lewis, Secretary of Transportation

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

40 CFR Part 86 is amended as follows:

1. Section 86.082–30 is amended in the introductory text of paragraph (a)(4) by revising the second sentence to read as follows:

§ 86.082–30 [Amended]

(a) * * *

(4) "* * * A violation of Section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act which is not configured to meet high-altitude requirements: "

* * * * *

2. Section 86.082–30 is further amended by removing existing paragraphs (a)(4) (i) and (ii) and adding new paragraphs (i) and (ii) to read as follows:

* * * * *

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be used principally at a designated high-altitude location; or

(ii) At an other-than-designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be used principally at a designated high-altitude location.

* * * * *

[FR Doc. 81-13213 Filed 5-1-81; 8:45 am]

BILLING CODE 6560-26-M

[1] If further study on the NOx impact indicates that there would be a significant adverse effect on such emissions, this decision may be subject to revision.

[2] Of course, since this decision affects only a manufacturer's liability under section 203(a)(1) of the Clean Air Act, any high-altitude vehicles that are sold for principal use at low altitudes are still subject to the requirements of section 207 of the Clean Air Act. Of course manufacturers would rarely be subject to recall or warranty liability for high-altitude vehicles failing to meet low-altitude standards if, as Ford points out, emissions actually improve.

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40 CFR Part 180

[PH FRL 1809-5; OPP-30049]

Tolerance and Additive Regulations for Pesticide Residues in Food or Feed; Certification Under Regulatory Flexibility Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Statement of administrative policy.

SUMMARY: The Regulatory Flexibility Act provides that certain proposed and final regulations must be accompanied either by a regulatory flexibility analysis or by a certification that no analysis is necessary because the regulation will not have a "significant economic impact on a substantial number of small entitites." EPA routinely issues regulations establishing pesticide tolerance levels, or exemptions from requirements for a tolerance, and levels and conditions for safe use of pesticides as food or feed additives that will not generally result in significant impacts to substantial numbers of small businesses or other small entities. Certification of this fact on a case-by-case basis may unnecessarily add to the time required to promulgate such a regulation. The Administrator is issuing a general certification that will apply to each proposed and final tolerance and food additive regulation, except those which would lower an existing tolerance or additive level.

FOR FURTHER INFORMATION: Edward Brandt, Benefits and Field Studies (TS-768C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (703-557-7355).

SUPPLEMENTARY INFORMATION: Congress recently enacted the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612). The purpose of the Act is to ensure that the Agency analyzes the effect of regulatory requirements on small businesses, Government jurisdictions, and organizations (collectively referred to as "small entities"). The law requires that with certain exceptions, each proposed or final regulation be accompanied by a regulatory flexibility analysis or by a certification by the Administrator that no such analysis is necessary because the regulation will not have a "significant economic impact on a substantial number of small entities." Under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended, (21 U.S.C. 346a), the Agency is authorized to establish by regulation tolerance levels or exemptions from the requirements for a tolerance for pesticides resulting in residues on raw agricultural commodities. Under section 409 of the same Act (21 U.S.C. 348), the Agency is authorized to issue regulations establishing safe levels of residues of pesticides found as additives in processed food or feed. These tolerance and additive regulations are intended to protect the public while giving appropriate consideration to the production of an adequate, wholesome, and economical food supply. Decisions on tolerance or additive regulations involve careful review and evaluation of residue chemistry and toxicology data to ensure that maximum residue levels likely to be found in food and feed are acceptable for human consumption.

The establishment of a tolerance or an exemption or an additive level allows a pesticide product to be registered under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) and thus to be distributed and sold in commerce for a particular use resulting in residues on food or feed under 40 CFR 162.7(d)(v). This generally has some beneficial economic impacts on the producer, distributors, and professional applicators of the pesticide, all of whom benefit through sale of the pesticide. It may also benefit the ultimate user of the pesticide, usually a grower or food processor, who would otherwise not be able to legally sell crops containing residues of that pesticide. These regulations also, in many cases, increase the number of pest treatment alternatives, thereby increasing competition in the pesticide market. However, the economic benefits from any specific regulation generally are not "significant," within the meaning of the Regulatory Flexibility Act, since most such rules affect only a relatively few manufacturers and distributors, and since the users of the pesticides affected by a rule generally have alternative means of controlling the pest in question. In addition, the only situation in which issuance of a regulation under section 408 or 409 of the FFDCA might have a significant "adverse" impact would be the case of an amendment to an existing tolerance or exemption or additive level which results in a lower maximum allowable residue.

However, delay in issuing a tolerance or an exemption or a food or feed additive level, in some cases, causes significant adverse economic impacts on potential users of a pesticide. Preparing and approving a separate certification for each of the many tolerance or food additive regulations could add significantly to the time required to process and approve them. Such a delay would in fact be contrary to the intent of the Regulatory Flexibility Act. It is therefore desirable to issue a general certification that will apply to most tolerance and food additive regulations on the grounds that such regulations will not substantially adversely impact small entities.

Accordingly, I hereby certify that regulations establishing new tolerances, food or feed additive levels, or conditions for safe use of food additives, or raising tolerance or additive levels, or establishing exemptions from tolerance requirements, under sections 408 and 409 of the FFDCA, do not have a significant economic impact on a substantial number of small entities. Such regulations will not be required to undergo regulatory flexibility analysis. A statement referring to this certification notice will be included in the preamble to each such regulation.

(5 U.S.C. 605(c))

Dated: April 28, 1981.

Walter C. Barber, Jr.,

Acting Administrator.

[FR Doc. 81-13415 Filed 5-1-81; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 9

[Docket No. FEMA-GEN-9C]

Floodplain Management and Protection of Wetlands

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule and request for comments.

SUMMARY: This regulation amends § 9.11(e)(1)(2) of the FEMA floodplain management regulations (44 CFR Part 9, 45 FR 59520, September 9, 1980, as previously amended at 46 FR 9084, January 28, 1981). It changes some of the substantive provisions and defers implementation until October 1, 1981.

The Federal Insurance Administration will not be required to assess the insurance risk on each new or substantially improved structure in coastal high hazard areas (V Zones) except as regards its elevation. This change from the initial system of individual rating was necessitated by an anticipated administrative burden imposed by the individual rating system and by the comments received by FEMA. The new rating scheme is intended to achieve actuarial flood insurance rates in V Zones without the administrative burden. The deferral of the implementation date from May 1, 1981 to October 1, 1981, is needed to implement the new system. *No requirements or changes to insurance availability or rating will go into effect on May 1, 1981.*

EFFECTIVE DATE: This rule is effective May 4, 1981.

Comment due date: On or before July 15, 1981.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 802, 1725 I Street, NW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, 1725 I Street, NW., Washington, DC 20472, Telephone (202) 634-1990.

SUPPLEMENTARY INFORMATION: As the Federal Insurance Administration (FIA) has gained experience in insuring structures in coastal high hazard areas (V Zones), it has become clear that the flood insurance rates for new construction in such areas are too low. Recent figures indicate that the Government is subsidizing policies in V Zones at $432 per policy per year. This apparently results from the fact that two key risk factors have not been taken into consideration: Wave heights and stability of the structure to withstand wave impacts. To put the flood insurance program on an actuarially sound basis in V Zones, it is imperative that these factors be taken into consideration. If flood insurance premiums do not reflect the real risk in V Zones, it will encourage development in these most hazardous areas and place a potential burden on the taxpayers. V Zones are those coastal areas in which waves have their greatest impact. Thus, while they embrace a very limited geographic area, they represent an area of significant risk. In order to operate the flood insurance program in V Zones on a fiscally responsible basis, FEMA issued regulations which required individual insurance rating of structures in V Zones.

Section 9.11(e) of the FEMA floodplain management regulations (44 CFR Part 9, 45 FR 59520, September 9, 1980) provided that in implementing the National Flood Insurance Program (NFIP), the Federal Insurance Administrator, who heads a component within the Federal Emergency Management Agency, and to whom the Director of FEMA has delegated the authority and responsibility for administering the NFIP, would, by February 1, 1981, take a number of actions with respect to the providing of flood insurance for new construction or a substantial improvement in a coastal high hazard area, and would identify all coastal high hazard areas (with or without base flood elevations) in the United States by October 1, 1981.

In order to implement the provisions of § 9.11(e)(1)(2) and (3), FEMA published a proposed rule at 45 FR 78181, 78182 on November 25, 1980, proposing various procedures for taking the actions required of FIA after February 1, 1981. On January 21, 1981, FEMA amended 44 CFR 9.11(e)(2) by changing the date for compliance from February 1, 1981 to May 1, 1981 (46 FR 9084, January 28, 1981). To further encourage additional comments concerning its proposed rule of November 25 and, in conformity with the amending of the implementation date of § 9.11(e)(2) from February 1, 1981 to May 1, 1981, FEMA published on February 23, 1981, at 46 FR 13527, 13528 a notice stating that rulemaking was being delayed and that pending expiration, on April 15, 1981, of an additional comment period, FEMA did not intend to publish any final rules generated by the November 25, 1980, proposed rulemaking other than certain rules not pertaining to § 9.11(e)(2), which were published as final in the Rules Section of the Federal Register of February 23, 1981.

This regulation must take effect immediately so that the public can be advised that the May 1, 1981 date is no