

Issued in Washington, D.C., on March 9, 1982.

B. Keith Potts,
Chief, Airspace and Air Traffic Rules
Division.

[FR Doc. 82-6851 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 81-AWE-15]

Alteration of Restricted Areas R-4816N and R-4816S, Dixie Valley, Nev.

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the times of designation of Restricted Areas R-4816N and R-4816S, Dixie Valley, NV, by adding the period of 0700 to 2400 local time Sunday to the present times of designation. This change is necessary to accommodate essential training requirements of fleet squadrons located at NAS Fallon.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenues, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On January 18, 1982, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the times of designation for Restricted Areas R-4816N and R-4816S by adding the period of 0700 to 2400 local time Sunday to the present times of designation (47 FR 2490). Because of limited range space available to fleet squadrons and the great number of squadrons requiring range time, fleet squadrons at NAS Fallon are unable to complete essential training during the 6-day availability of the restricted areas. Extension of the times of designation to include Sunday will provide for maximum training by allowing use of the restricted areas for the entire training period. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.48 was republished on January 2, 1981 (46 FR 810).

The Rule

This amendment to Part 73 of the Federal Aviation Regulations amends the times of designation for Restricted Areas R-4816N and R-4816S, Dixie Valley, NV, from 0700 to 2400 local time, Monday through Saturday, to 0700 to 2400 local time, Monday through Sunday.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.48 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 810), is amended, effective 0901 G.m.t., May 13, 1982, as follows:

Restricted Areas R-4816N and R-4816S, Dixie Valley, NV [Amended]

Under times of designation by deleting the words "0700 to 2400 local time, Monday through Saturday," and substituting for them the words "0700 to 2400 local time, Monday through Sunday."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on March 9, 1982.

B. Keith Potts,
Chief, Airspace and Air Traffic Rules
Division.

[FR Doc. 82-6852 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD7 82-07]

Drawbridge Operation Regulations: St. Lucie Canal (Okeechobee Waterway), Fla., Ashepoo River, S.C., Oconee River, Ga.

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the drawbridges across the St. Lucie Canal (Okeechobee

Waterway), mile 17.1, Ashepoo River, mile 15.0, and the Oconee River, mile 106.6, because the drawbridges have been replaced by fixed bridges. Notice and public procedure have been omitted from this action due to removal of the bridges concerned.

EFFECTIVE DATE: This amendment is effective on April 14, 1982.

FOR FURTHER INFORMATION CONTACT:

James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to drawbridges that no longer exist. Consequently, this action cannot be considered a major rule under Executive Order 12291. Furthermore, it has been found nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (94 Stat. 1164). However, the requirements of the Act were taken into consideration, and this action will not have a significant effect on small entities.

Drafting Information

The principal persons involved in drafting this proposal are: James Davis, Bridge Administration Specialist, Office of Aids to Navigation, Bridge Section and Lieutenant William J. Peterson, Office of Commander, Seventh Coast Guard District, Legal Office.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.439a [Removed]

§ 117.245 [Amended]

In consideration of the above facts, Part 117 of Title 33 of the Code of Federal Regulations is amended by removing § 117.439a, § 117.245(h)(3), and § 117.245(h)(17).

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: March 1, 1982.

B. L. Stabile,
Rear Admiral, U.S. Coast Guard, Seventh
Coast Guard District.

[FR Doc. 82-6920 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 143

[CGD 78-160]

Outer Continental Shelf Activities**Correction**

In FR Doc. 82-5850, appearing at page 9365, as the Part VI of the issue of Thursday, March 4, 1982, on page 9384, in § 143.201, the date "April 5, 1983" appearing in the last line should have read "April 4, 1982". For the convenience of the reader the section is corrected and is republished to read as follows:

§ 143.201 Existing MODUs exempted from new design requirements.

Any mobile offshore drilling unit built before, under construction on, or contracted for prior to April 5, 1982 is not required to meet the design requirements of this subpart until the unit is rebuilt. Until rebuilt, the unit must continue to comply with the design requirements applicable to the unit on April 4, 1982.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 7****Fire Island National Seashore, New York; Seaplane Regulations****AGENCY:** National Park Service, Interior.**ACTION:** Final rule.

SUMMARY: On August 28, 1981, the National Park Service published in the Federal Register (46 FR 43471) a proposal to regulate the use of seaplanes and amphibious aircraft. The regulations are needed to control seaplane and amphibious aircraft operations within Fire Island National Seashore. Unregulated use of surface waters by seaplanes and amphibious aircraft has resulted in aircraft accidents, near collisions with small boats, and complaints of extremely low overflights and trespassing. It is the objective of these regulations to promote public safety, minimize the conflicts among the various users and to protect the resources of the seashore.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT: Don Weir, Chief Ranger, Fire Island National Seashore, Patchogue, New York 11772, Telephone (516) 289-4810.

SUPPLEMENTARY INFORMATION:**Background**

On July 30, 1979, the National Park Service promulgated final regulations to control seaplane and amphibious aircraft operations within Fire Island National Seashore (44 FR 44492). This rule established zones for take-offs and landings, and designated areas where taxiing could take place. These regulations were developed to promote public safety, to minimize the conflicts among the various users, and to protect the resources of the seashore.

The designation of these taxi routes was based on public comment received during the public involvement phase of the rulemaking process. Twelve island communities indicated a desire to permit seaplane and amphibious aircraft access.

After the promulgation of this regulation in July, 1979, there continued to be a conflict between the property owners and visitors in three of the island communities—Fair Harbor, Ocean Bay Park, and Cherry Grove. Due to the fact that these three communities have bayside swimming beaches and mooring access, interaction between seaplanes and those pursuing water recreation activities continued and created numerous public safety problems. From July 22 to September 9, 1979, 50 complaints were filed with the National Park Service. These complaints cited such incidents as near collisions between seaplanes and boats, and seaplanes taxiing among swimmers.

As a result of these complaints and the potential threat to life and property indicated, the representatives of the Fair Harbor, Ocean Bay Park and Cherry Grove communities approached the National Park Service and asked that their communities no longer be designated as access points for seaplane use. Notarized letters to this effect have been received by the Superintendent of Fire Island National Seashore indicating that community referendums were held and a majority favored the removal of seaplane access designation. Regulations published July 25, 1980, removed the three communities from the designation as seaplane access points, as requested by the community leaders.

During the past summer season, the residents and visitors in the communities of Dunewood and Point O' Woods experienced similar problems and likewise forwarded notarized letters indicating the need for greater protection from seaplane use and showing the results of referenda indicating the majority desire to restrict seaplane access from the lands and waters within their community boundaries.

At the time these seaplane and amphibious aircraft regulations were initially proposed in 1978 (43 FR 35070), an environmental assessment was prepared as required by the National Environmental Policy Act (83 Stat. 852, 42 U.S.C. 4321 *et seq.*). This assessment is on file at the park headquarters listed above.

On August 28, 1981, this rule was published as a proposed rule (46 FR 43471) and a period of 30 days for public comment was set. No comments have been received on this regulation. The rule promulgated here, is the same as that proposed.

Drafting Information

The author of this regulation is Donald H. Weir, Fire Island National Seashore.

Compliance With Other Laws

The National Park Service has determined that this rulemaking is not a "major rule" with the meaning of Executive Order 12291, 46 FR 13193 (February 19, 1981), nor will it have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 94 Stat. 1164. This rulemaking contains no provisions that would entail the collection of information or require compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, 94 Stat. 2812. In addition, the Service has determined that this regulation is not a major Federal action significantly affecting the quality of the human environment, which would require preparation of an environmental impact statement.

Authority

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; (16 U.S.C. 3))

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, 36 CFR Part 7 is amended by revising § 7.20(b)(3) as follows:

§ 7.20 Fire Island National Seashore.

* * * * *

(b) * * *

(3) Aircraft may taxi on routes perpendicular to the shoreline to and from docking facilities at the following locations:

(i) Kismet—located at approximate longitude 73° 12½' and approximate latitude 40° 38½'.

(ii) Lonelyville—located at approximate longitude 73° 11' and approximate latitude 40° 38½'.

(iii) Atlantique—located at approximate longitude 73° 10½' and approximate latitude 40° 38½'.

(iv) Robbins Rest—located at approximate longitude 73° 10' and approximate latitude 40° 38½'.

(v) Fire Island Pines—located at approximate longitude 73° 04½' and approximate latitude 40° 40'.

(vi) Water Island—located at approximate longitude 73° 02' and approximate latitude 40° 40½'.

(vii) Davis Park—located at approximate longitude 73° 00½' and approximate latitude 40° 41'.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6900 Filed 3-12-82; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Burial Allowance

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration has amended its adjudication regulations to implement certain changes made by a new law, the Omnibus Budget Reconciliation Act of 1981. The new law restricts payment of the nonservice-connected death burial allowance to veterans who at time of death were in receipt of pension or compensation (or would have been in receipt of compensation but for receipt of military retired pay).

EFFECTIVE DATE: These changes are effective for deaths occurring after September 30, 1981, the effective date specified in the new law, designated as Pub. L. 97-35.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: On pages 51406-51407 of the Federal Register of October 20, 1981 the Veterans Administration published a proposed amendment of 38 CFR 3.1600 to implement certain changes made by Pub. L. 97-35 in the entitlement requirements to the nonservice-connected death burial allowance. Interested persons were given until November 19, 1981, to submit comments, objections, or suggestions to the proposed change to § 3.1600.

We received a number of comments. All of the commentators objected to the provisions of Pub. L. 97-35 which restrict payment of the nonservice-connected death burial allowance to veterans in receipt of compensation or pension at

time of death. They want entitlement to the nonservice-connected death burial allowance to continue to be determined under the law in effect prior to enactment of Pub. L. 97-35. Two commentators also argue that the regulation will have a significant economic impact on counties, since it may require them to raise taxes, and on funeral homes, since they can no longer tell immediately if the burial allowance will be payable. Our views on these points follow.

The Veterans Administration has no discretion in this matter. We must follow the new law. This regulation conforms strictly to Pub. L. 97-35, and adds no regulatory burdens not already imposed by that law. Consequently, the amendment of § 3.1600 is adopted as proposed.

The Administrator hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this regulation simply implements a legislative enactment and has no independent impact or requirement. Pursuant to 5 U.S.C. 605(b), this regulation is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Veterans Administration has determined in accordance with Executive Order 12291 that this regulation is nonmajor because it simply implements statutory requirements and would have little or no economic impact, in itself.

(Catalog of Federal Domestic Assistance Program number is 64.101)

Approved: February 19, 1982.

Robert P. Nimmo,
Administrator.

PART 3—ADJUDICATION

The Veterans Administration amends Part 3, Title 38, Code of Federal Regulations as follows:

Section 3.1600 is amended to read as follows:

(a) By removing the citation "(Pub. L. 89-360)" in the first sentence of the introductory portion preceding paragraph (a).

(b) By revising paragraphs (a), (b), (c) and (f) as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(a) *Service-connected death burial allowance.* If a veteran dies as a result of a service-connected disability or

disabilities, an amount not to exceed \$1,100 (or if entitlement is under § 3.8 (c) or (d), a rate in Philippine pesos equivalent to \$550) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement to this benefit is subject to the applicable further provisions of this section and §§ 3.1601 through 3.1610. Payment of the service-connected death burial allowance is in lieu of payment of any benefit authorized under paragraph (b), (c) or (f) of this section. (38 U.S.C. 907)

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service connected, an amount not to exceed \$300 (or if entitlement is under § 3.8 (c) or (d), a rate in Philippine pesos equivalent to \$150) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement is subject to the following conditions:

(1) At the time of death the veteran was in receipt of pension or compensation (or but for the receipt of military retirement pay would have been in receipt of compensation); or

(2) The veteran has an original or reopened claim for either benefit pending at the time of the veteran's death, and

(i) In the case of an original claim there is sufficient evidence of record on the date of the veteran's death to have supported an award of compensation or pension effective prior to the date of the veteran's death, or

(ii) In the case of a reopened claim, there is sufficient prima facie evidence of record on the date of the veteran's death to indicate that the deceased would have been entitled to compensation or pension prior to date of death. If the Veterans Administration determines that additional evidence is needed to confirm that the deceased would have been entitled prior to death, it shall be submitted within 1 year from date of request to the burial allowance claimant for submission of the confirming evidence. If the confirming evidence is not received by the Veterans Administration within 1 year from date of request, the burial allowance claim shall be disallowed; and

(3) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 210(c), 902)

(c) *Death while properly hospitalized.* If a person dies from nonservice-connected causes while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed \$300 for the

actual cost of the person's funeral and burial, and an additional amount for transportation of the body to the place of burial. (38 U.S.C. 903(a)). (If the hospitalized person's death is service connected, entitlement to burial benefits falls under paragraph (a) of this section instead of this paragraph.)

(f) *Plot or interment allowance.* When a veteran dies from non-service-connected causes, \$150 (or where entitlement is based on § 3.8(c) or (d), a rate in Philippine pesos equivalent to \$75) may be paid as a plot or interment allowance. The plot or interment allowance is payable to the person or entity who incurred the expenses. (For payment to a State or political subdivision thereof, see § 3.1604(c).) Entitlement is subject to the following conditions:

(1) The deceased veteran is eligible for the burial allowance under paragraph (b) or (c) of this section; or

(2) The veteran either served during a period of war or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty (or at time of discharge has such a disability, shown by official service records, which in medical judgment would have justified a discharge for disability; the official service department record showing that the veteran was discharged or released from service for disability incurred in line of duty will be accepted for determining entitlement to the plot or interment allowance notwithstanding that the Veterans Administration has determined, in connection with a claim for monetary benefits, that the disability was not incurred in line of duty); and

(3) The veteran is not buried in a national cemetery or other cemetery under the jurisdiction of the United States; and

(4) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 903(b))

[FR Doc. 82-8802 Filed 3-12-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL-2042-2]

Approval of Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule and clarification.

SUMMARY: The State of Delaware submitted regulations pertaining to prevention of significant deterioration (PSD). These regulations are generally equivalent to the federal requirements contained in 40 CFR 51.24. EPA approves the State-submitted regulations as a revision of the Delaware State Implementation Plan (SIP). With certain minor exceptions, the State-submitted amendments meet the requirements of the Clean Air Act and 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans).

Certain provisions pertaining to notifying Federal Land Managers and obtaining written approval of the Administrator to modify or substitute a modeling procedure were not included in the Delaware regulations. These provisions are covered by EPA regulations promulgated previously, which will remain in effect.

This notice also serves to clarify a prior approval action with regard to the Delaware SIP.

EFFECTIVE DATE: April 14, 1982.

ADDRESSES: Copies of the PSD regulations submitted by Delaware are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Harold A. Frankford (3AH12).

Delaware Department of Natural Resources & Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, Delaware 19901, ATTN: Robert R. French.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460.

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (3AW12), MD-DE-DC Metro Section at the above-mentioned address. Phone: 215/597-8392, Ref: AH012DE.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1980, the State of Delaware submitted to the Environmental Protection Agency amendments to Regulations I (Definitions) and XXV (Requirements for Preconstruction Review) of the State's Regulations Governing the Control of Air Pollution and requested

that they be reviewed and processed as a revision of the Delaware State Implementation Plan (SIP). The amendments consist of changes to Regulations XXV pertaining to the Prevention of Significant Deterioration (PSD) program and Regulation I pertaining to the definition of the term "CAA." In addition, the State has requested that the definition of the terms "allowable emissions," "best available control technology," and "potential to emit" be deleted in Regulation I and replaced by the definition of these terms that would now be listed in Regulation XXV.

These regulations are designed to replace EPA's disapproval and promulgation action of June 19, 1978, 43 FR 26410. In this notice, EPA promulgated general PSD regulations applicable to all States and territories (40 CFR 52.21(b) through (v)) and one regulation specifically pertaining to Delaware (40 CFR 52.432).

The State conducted public hearings pertaining to these regulations in Wilmington on October 31, 1980, as required by 40 CFR 51.4.

Notice of Proposed Rulemaking

On October 29, 1981, 46 FR 53460, EPA proposed the amendments as a revision of the Delaware State Implementation Plan (SIP), but noted that there were differences between Delaware's PSD regulations and the federally promulgated regulations found in 40 CFR 51.24. These differences were explained in detail in the aforementioned notice.

There are two Clean Air Act requirements that were not addressed in the State regulations. One requirement pertains to notifying the Federal Land Manager of all PSD sources which are to be located within 100 kilometers (km) of a Class I PSD area (40 CFR 51.24(p)). The other pertains to the federal requirement that any modification or substitution of a modeling procedure requires written approval of the Administrator in addition to approval by the State (40 CFR 51.24(e)(2)). Therefore, EPA proposed to revise 40 CFR 52.432(b) to retain the provisions of 40 CFR 52.21(1)(2) and 52.21(p) as a part of the applicable Delaware SIP.

EPA also proposed for inclusion into the SIP, a February 27, 1981 letter from the State of Delaware to EPA providing a commitment by the State to notify EPA of any applicable facility that is planning to locate within 100 kilometers of a Class I area. This letter also constitutes an interpretation of Regulation XXV, Section 3.10C so that it incorporates the criteria found in 40 CFR

Part 58. (See "EPA Evaluation/Actions").

Summary of Public Comments

During the 30-day public comment period, no comments were received.

EPA Evaluation/Actions

In addition to the above-discussed distinctions, Delaware's PSD regulations contain two other significant distinctions from the federal provisions:

(1) The phrase "Quality Assurance Requirements for PSD Air Monitoring as pre-approved by the Department" (Section 3.10C) does not specify the use of the criteria contained in 40 CFR Part 58, Appendix B. The State has agreed in its February 27, 1981 letter that, as a minimum, it will ensure that the requirements of 40 CFR Part 58, Appendix B are specified.

(2) The State PSD regulations contain references only to Delaware Regulations XX (NSPS) and XXI (NESHAPS). Delaware has been delegated full NESHAPS authority and its NESHAPS regulations are considered equivalent to 40 CFR Part 61. However, while Delaware's NSPS regulation (Regulation XX) is considered equivalent for those NSPS categories which are contained in 40 CFR Part 60, Delaware has only requested and been delegated NSPS authority for a limited number of source types. Nevertheless, any source not covered by Regulation XX but covered under 40 CFR Part 60 must still meet all applicable Federal requirements. Therefore, no applicable source will be unregulated.

Because of these assurances, EPA believes that disapproval action regarding these provisions is not warranted. Therefore, Section 3.10C of Regulation XXV and the provisions referring to State Regulations XX and XXI are included as part of the approved Delaware SIP.

Except as mentioned above, the State's PSD regulations meet the requirements of the Clean Air Act and 40 CFR Part 52, and therefore are approved as a revision of the Delaware SIP. Accordingly, 40 CFR 52.420 (Identification of Plan) of Subpart I (Delaware) is amended to incorporate Delaware PSD regulations into the approved Delaware SIP. At the same time, 40 CFR 52.432(b) (Significant Deterioration of Air Quality) of Subpart I is amended so that only two provisions of EPA's June 19, 1978 promulgation of PSD regulations, 43 FR 26410, remain as part of the applicable Delaware SIP. These provisions pertain to the notifying of the Federal Land Manager of all PSD sources that would affect a Class I PSD area (Section 52.21 (p)) and the

provision that permits only the EPA Administrator to approve in writing any modification or substitution of a diffusion modeling procedure (Section 52.21(1)(2)). EPA also approves for inclusion into the SIP, the February 27, 1981 letter submitted by Delaware to EPA containing the procedures for notifying EPA of PSD sources that may locate within 100 km of a Class I PSD area and ensuring EPA that the State will follow the 40 CFR Part 58 requirements during all PSD monitoring activities.

The State has been advised of EPA's action to approve Delaware's PSD regulations, but to retain portions of 40 CFR 52.432 and has expressed no objections.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

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.

Clarification of Prior EPA Action

On October, 30, 1981, 46 FR 53662, EPA approved an amended Delaware Regulation (Section 4.2 of Regulation II) as a revision of the Delaware SIP. In the preamble, EPA erroneously stated that all gasoline storage tanks with a capacity of "2,000 gallons or more" would no longer be exempt from Regulation II's requirements. EPA wishes to clarify this point. In actuality, Delaware's regulation specifically exempts gasoline storage tanks with a capacity equal to 2,000 gallons from the Regulation II requirements, but no longer exempts gasoline storage tanks with a capacity *greater than* 2,000 gallons.

(42 U.S.C. 7401-642)

Dated: March 9, 1982.

Anne M. Gorsuch,
Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Delaware was approved by the Director of the Office of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart I—Delaware

1. Section 52.420 is amended by adding paragraphs (c)(28) and (c)(29) to read as follows:

§ 52.420 Identification of plan.

(c) * * *

(28) Amendments to Regulations I (Definitions) and XXV Section (Requirements for Preconstruction Review) pertaining to prevention of significant deterioration submitted on December 29, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

(29) A February 27, 1981 letter from the Delaware Department of Natural Resources and Environmental Control to EPA pertaining to procedures of notifying EPA of any PSD application for sources locating within 100 kilometers of a Class I PSD area, as well as ensuring EPA in any monitoring procedure, that the requirements of 40 CFR Part 58 will be specified.

2. In § 52.432, paragraph (b) is revised to read as follows:

§ 52.432 Significant deterioration of air quality.

(b) *Regulation for preventing significant deterioration of air quality.* The provisions of §§ 52.21(1)(2) and 52.21(p) are hereby incorporated and made a part of the applicable State plan for the State of Delaware.

[FR Doc. 82-6923 Filed 3-12-82; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 81

[A-5-FRL 2011-8]

Designations of Areas for Air Quality Planning Purposes; Attainment Status Designations; Indiana, Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 8, 1980 (45 FR 52841), the EPA proposed approval of a revision to the ozone (O_3) attainment status designation of Vanderburgh County, Indiana, and on July 27, 1981 (46 FR 38386), the EPA proposed approval of revisions to the total suspended particulates (TSP) and sulfur dioxide (SO_2) attainment designations of Lake County, Ohio. The EPA is revising these designations at the States' requests. This notice responds to the public comments and announces EPA's decision to revise the designations.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders at (312) 886-6034.

SUPPLEMENTARY INFORMATION:**1. Vanderburgh County, Indiana**

On September 5, 1979, the Indiana Air Pollution Control Board (IAPCB) changed Vanderburgh County's O_3 attainment designation in Indiana regulation 325 IAC 1.1-3 (formerly APC-22) from nonattainment to attainment/unclassifiable. The IAPCB based its designation change on monitoring data gathered at the Evansville Civic Center site in Vanderburgh County which showed no violation of the 0.12 part per million (ppm) O_3 standard in 1977 and 1978. At that time, the EPA criteria for redesignation specified that eight quarters of ambient air quality monitoring data showing no violations were generally required before a redesignation could be approved. Although Indiana relied on eight quarters of data showing no violation at the City of Evansville site in Vanderburgh County, data collected in 1977 and 1978 in nearby Henderson County, Kentucky, contained recorded violations of the O_3 standard in 1977. In EPA's judgment, Henderson County monitoring data must be considered in any redesignation of Vanderburgh County because of its proximity. Therefore, Indiana deferred submittal of its redesignation request to the EPA until the 1979 monitoring data from both the Vanderburgh and Henderson County monitoring sites had been collected and analyzed.

On February 11, 1980, the State of Indiana submitted its request for redesignation of Vanderburgh County to the EPA. Technical data accompanying the submittal demonstrated that there were no violations of the 0.12 ppm O_3 standard recorded at the Evansville Civic Center in Vanderburgh County, in the three years from 1977 through 1979 or in Henderson County in 1978 and 1979. On August 8, 1980 (45 FR 52841),

the EPA proposed approval of a revision of Vanderburgh County's O_3 attainment designation (40 CFR 81.315) from "Does Not Meet Primary Standards" to "Cannot Be Classified or Better Than National Standards" and solicited public comment as to the appropriate attainment designation. The proposed redesignation was contingent upon a lack of O_3 violations in Vanderburgh or Henderson Counties during 1980. The EPA imposed the contingency because, in May, 1980, the State of Indiana terminated monitoring at the Evansville Civic Center and relocated the O_3 monitor to a new site in Vanderburgh County approximately 13 kilometers north of the previous years' monitoring location. Since the publication of the proposed rulemaking, ambient O_3 data collected at the new site in Vanderburgh County and at Henderson County have been collected and analyzed for 1980 and 1981. The data show one one-hour average concentration exceeding 0.12 ppm at each site.

A local air pollution agency submitted two comments on EPA's proposed redesignation. The following section addresses the comments and EPA's response to the comments.

Public Comment

The City of Evansville EPA submitted two comments. First, the commentator questions why the EPA is proposing to classify Vanderburgh County as both attainment and unclassifiable even though sufficient data for the 1977 through 1979 period exist to support a full attainment designation.

Second, the commentator is opposed to the EPA considering the Henderson data when determining the appropriate designation for Vanderburgh County. The commentator considers the Henderson monitor to be too close to a major source of oxides of nitrogen (NO_x), and, therefore, not representative of the Vanderburgh County air quality.

EPA Response

It is EPA's policy to codify the O_3 attainment designation of an area as either "does not meet primary standards" or "cannot be classified or better than national standards". In other words, areas designated as "cannot be classified" or "better than the national standards" are codified together because the surveillance and control requirements for both are identical. Such a joint codification is compatible with the requirements of section 107 of the Clean Air Act.

Second, data from O_3 sites in the vicinity of major urban areas, as well as chemical kinetics studies, indicate that O_3 concentrations generally peak

approximately 15 to 30 kilometers downwind of the urban areas. Because the Henderson County site is located approximately 13 kilometers from Evansville, it can be expected that volatile organic compound emissions from Evansville may have a significant impact on ambient O_3 levels at the Henderson County site. Therefore, Henderson data should be considered when determining the attainment status of Vanderburgh County. The presence of a significant NO_x source near the Henderson monitor would act to scavenge (eliminate) O_3 in the vicinity of the monitor and would not lead to overestimation of O_3 concentrations.

Final Determination

After reviewing the State's recommendation, the monitoring data gathered at the new monitoring location and the public comments, the EPA is proceeding with a redesignation of Vanderburgh County to "Cannot Be Classified or Better Than National Standards" for O_3 . This redesignation is based on EPA's present policy on redesignation for O_3 as outlined in the "Guideline for the Interpretation of Ozone Air Quality Standards" (EPA 450/4-79-003). The Guideline suggests the use of the most recent three years of quality assured data for the assessment of attainment/nonattainment status. The Guideline also allows the use of as little as one O_3 season of ambient data if these are the only data available. Finally, the Guidelines specifies the number of allowable expected standard exceedances for a one to three year period. Attainment of the standard is achieved when the average number of expected exceedances at each site is equal to or less than one per year.

Assessment of attainment of the O_3 standard in Vanderburgh County is based on the results of EPA's analysis of ambient monitoring data collected at Scott Grade School, in Vanderburgh County, and in Henderson County during 1980 and 1981 and on data collected at the Evansville Civic Center from 1977 through 1979 submitted by the IAPCB. The results indicate that there were no monitored exceedances of the standard at the Evansville Civic Center site from 1977 through 1979 and only one exceedance of the standard monitored at the Scott Grade School site and at the Henderson County site during 1980 and 1981. The Agency's conclusion is that the data indicate the average number of expected exceedances at all three sites are less than one and, thus, adequately support the redesignation of Vanderburgh County.

2. Lake County, Ohio

On April 9, 1981, the Ohio EPA submitted a revision of the TSP and SO₂ attainment status designations of Lake County. The redesignation request involved revising certain areas from primary nonattainment to secondary nonattainment for TSP and revising portions from primary nonattainment to attainment for SO₂. The revision is supported by adequate TSP and SO₂ air quality monitoring data submitted by the State of Ohio.

The EPA published a notice of proposed approval of the revision on July 27, 1981 (46 FR 38386). A 30 day comment period was provided until August 26, 1981, and subsequently extended to September 15, 1981, at the State's request (46 FR 45162). Comments received on the revision from the State and local industry generally supported the EPA proposal. The commenters also brought to EPA's attention that, relative to TSP, the area northwest of Fairport Harbor and Grand River in Painesville Township should be designated to attainment rather than secondary nonattainment because there are eight quarters of air quality data which show attainment in this area. The EPA agrees with the State that there are sufficient representative monitoring data to support this modification of the original request. Relative to SO₂, the State commented that the City of Mentor north of U.S. 20 and west of S.R. 306, rather than east of S.R. 306 as stated in the original request, should be designated primary nonattainment. The EPA agrees that eight quarters of monitoring data support this modification of the original request.

The final TSP nonattainment boundaries for Lake County are:

Primary nonattainment: The City of Painesville.

Secondary nonattainment: (a) Leroy Township, (b) the area bounded on the north and west by the county line, on the south by I-90 and on the east by S.R. 306, excluding the Town of Willowick, and (c) Painesville Township excluding Fairport Harbor and Grand River and the area within Painesville Township north and west to Fairport Harbor and Grand River.

The SO₂ nonattainment area boundaries are:

Primary nonattainment: Cities of Eastlake, Timberlake, Lakeline, Willoughby (north of U.S. 20), and Mentor (north of U.S. 20, west of S.R. 306).

These actions were exempted from review by the Office of Management and Budget under section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that the attainment significant economic impact on a substantial number of small entities. These actions constitute attainment status redesignations under section 107(d) of the Clean Air Act.

Under section 307(d)(1) of the Clean Air Act, judicial review of these final actions 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 the EPA to enforce these requirements.

(Sec. 107 of the Clean Air Act, as amended (42 U.S.C. 7407))

Dated: March 9, 1982.

Anne M. Gorsuch,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended as follows:

1. Within the "Indiana O₃" portions of § 81.315, Vanderburgh County should be revised as follows:

§ 81.315 Indiana.

INDIANA O ₃				
Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified or better than national standards	
Vanderburgh County.....			X	

2. Within the "Ohio—TSP" portions of § 81.336, Lake County should be revised as follows:

§ 81.336 Ohio

OHIO—TSP				
Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Lake:				
The City of Painesville.....	X			
(a) Leroy Township, (b) the area bounded on the north and west by the county line, on the south by I-90 and on the east by S.R. 306, excluding the Town of Willowick, and (c) Painesville Township excluding Fairport Harbor and Grand River and the area within Painesville Township north and west of Fairport Harbor and Grand River.		X		
Remainder of Lake County.....				X

3. Within the "Ohio SO₂" portions of § 81.336, Lake County should be revised as follows:

OHIO—SO ₂				
Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Lake:				
The Cities of Eastlake, Timberlake, Lakeline, Willoughby (north of U.S. 20), and Mentor (north of U.S. 20, west of S.R. 306).	X			
The remainder of Lake County.....				X

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