the development of oil spill contingency plans by the oil companies and the Coast Guard.

Summary of Final Evaluation

The regulations have been evaluated under E.O. 12291 and the Department of Transportation Order 2100.5. "Policies and Procedures for Simplification, Analysis and Review of Regulations," dated May 22, 1980, and have been determined not to be major and to be nonsignificant. The expansion of an anchorage does not involve impacts on competition, businesses, State or local government, or the regulations of other programs and agencies. Because of this, no evaluation has been prepared.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—ANCHORAGE REGULATIONS

Final Regulations

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by revising § 110.157(a)(1) to read as follows:

§ 110.157 Delaware Bay and River.

(a) *The anchorage grounds.* (1) Anchorage A (tanker lightering) off the entrance to Mispillion River. In Delaware Bay southwest of Brandywine Channel beginning at latitude 38°53′57″ N., longitude 75°08′00″ W., thence northwesterly to latitude 39°01′22″ N., longitude 75°13′25″ W., thence southwesterly to latitude 39°00′49″ N., longitude 75°14′57″ W., thence southeasterly to latitude 38°53′22″ N., longitude 75°09′26″ W., thence northeasterly to the point of beginning. This anchorage is for the specific purpose of allowing deep draft tankers to anchor and lighter their cargo before proceeding up the Delaware River. Supervision over the anchoring of vessels and over cargo transfer operations in Anchorage A is exercised by the Captain of the Port, Philadelphia. The regulations in paragraphs (b)(1) and (b)(2) of this section do not apply to this anchorage.

* * * * *

(Sec. 7, 38 Stat. 1053 as amended (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940 (49 U.S.C. 1655(g)(1)) 49 CFR 1.26(c)(1))

Dated: April 30, 1982.

J. S. Gracey,

Commander, Third Coast Guard District.

[FR Doc. 82-12730 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD2 82-01]

Drawbridge Operations Regulations; Muskingum River, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the owner, the Coast Guard is changing the regulations governing the Consolidated Railroad (Conrail) Drawbridge over the Zanesville Canal at Mile 77.06, Muskingum River. The change will require advance notice for opening the draw. The effect of the action is to relieve the bridge owner from having a person constantly available to open the draw while providing for the reasonable needs of navigation.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: S. W. Thoroughman, Chief, Bridge Branch, Room 400, 1430 Olive Street, St. Louis, MO 63103 (314-425-4607).

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: S. W. Thoroughman, Project Manager, and Lieutenant Commander R. A. Knee, U.S. Coast Guard, Project Attorney, c/o Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri.

SUPPLEMENTARY INFORMATION: On June 19, 1981 the Second Coast Guard District published a Local Notice to Mariners initiating a 60-day trial period on July 1, 1981 to test the proposed regulations. On November 16, 1981 the Coast Guard published a Notice of Proposed Rulemaking (46 FR 56208) concerning this amendment. The proposed rule included a requirement that the owner of the drawbridge maintain operating machinery in a serviceable condition and open and close the draw at frequent intervals to insure satisfactory operation. Upon review, this provision has been stricken from the final rule as unnecessary because the duty to maintain the draw in an operable condition is implicit in the statute and regulations governing the operation of drawbridges and the permit authorizing the existence of this drawbridge. In addition subparagraphs (ii) and (iii) have been reversed in order to place these in a more logical order.

Discussion of Comments

No comments were received in response to the Notice of Proposed Rulemaking. One comment was received in response to the Local Notice to Mariners. The District Engineer, U.S. Army Corps of Engineers, Huntington District, suggested that the regulation provide for the emergency opening of the draw. A requirement that, in case of emergency, the draw shall be opened promptly upon notification was included in the proposed rule.

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The final regulation has previously been certified under Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) at 46 FR 56208 (November 16, 1981). No information has been received which changes those determinations and certification. The bridge has been opened on an average of once per year. There are no known plans for development of the waterway capacity which would increase commercial usage or otherwise require additional openings. Presently § 117.560(g)(5) of Title 23, Code of Federal Regulations is reserved. This regulation will amend that section.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.560(g)(5) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(g) * * *

(5) Muskingum River, Ohio; Conrail Bridge across the Zanesville Canal. The draw shall open on signal Tuesday through Friday if the Conrail office is notified by 12:01 p.m. on day preceding the day and time the opening is required. For openings Saturday through Monday, the Conrail office shall be notified by 12:01 p.m. on Friday specifying which day and time the opening is required. In case of emergency, the draw shall be open as soon as possible.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: April 29, 1982.

T. H. Ruttledge,

Admiral, U.S. Coast Guard, Acting District Commander.

[FR Doc. 82-12733 Filed 5-12-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 166 and 209

[CGD 81-040]

Shipping Safety Fairways, Adoption of Corps of Engineers' Designations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule adopts certain shipping safety fairway regulations which were originally promulgated by the U.S. Army Corps of Engineers (COE) in 33 CFR 209.135 and moves them to new 33 CFR Part 166. There will be no changes to the fairway arrangements by this adoption.

Fairways were established in the Gulf of Mexico by the COE to preserve areas for safe navigation. Fairways are areas where no permits for off-shore structures were issued. In 1978, the Ports and Waterways Safety Act (PWSA) was amended to delegate authority for designating fairways to the Department of Transportation and the Coast Guard. This administrative action merely moves the existing COE Gulf fairways in 33 CFR 209.135 to new 33 CFR Part 166.

EFFECTIVE DATE: These rules are effective May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Christopher Young, Office of Navigation (G-NSR), Room 1402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202-426-4958).

SUPPLEMENTARY INFORMATION: The Coast Guard has determined for good cause that a notice of proposed rulemaking (NPRM) is unnecessary and that these rules shall be effective upon publication as per 5 U.S.C. 553(b)(3)(B) and (d)(3).

These rules merely adopt rules currently in effect in 33 CFR 209.135 and places them in new 33 CFR Part 166. There have been no changes to the existing fairway arrangement. This action was made necessary by the Ports and Waterways Safety Act (PWSA) which delegates the authority for the establishment of fairways to the Department of Transportation and the Coast Guard.

Drafting Information

The principal persons involved in drafting this rulemaking are: Mr. Christopher Young, Project Manager, Office of Navigation, and Lieutenant Michael Tagg, Project Attorney, Office of Chief Counsel.

Discussion of Regulations

Background

A shipping safety fairway is a designated area of a waterway where no fixed structures are permitted to be erected. It increases navigation safety by insuring that an obstruction-free route is available to vessel traffic transiting the vicinity.

The existing shipping safety fairways in the Gulf of Mexico are described in 33 CFR 209.135. They were established by the U.S. Army Corps of Engineers under authority granted by the Outer Continental Shelf Lands Act (67 Stat. 463; 43 U.S.C. 1333(e)) to issue permits for structures on the OCS. In the interests of safe navigation, the Corps promulgated regulations to designate specific areas in which no permits would be issued.

In the Gulf of Mexico, there are over 800 miles of 2-mile wide fairways, some of which are over 100 miles out into the Gulf. They were established by the Corps between 1948 and 1968 (with a few subsequent amendments) to reduce the risk of collision between vessels and the growing number of off-shore drilling structures. Many interests, including oil companies, maritime associations, shipping companies, and government agencies, participated in the development of the fairway system.

In 1978, the Ports and Waterways Safety Act (PWSA) (Pub. L. 95-474; 92 Stat. 1473; 33 U.S.C. 1223(c)) was amended to delegate authority to the Department of Transportation and the Coast Guard to establish vessel routing measures, including fairways and fairway anchorages. The PWSA authority to establish vessel routing measures is only to be exercised after a study into the need for designated safe access routes due to traffic density and use conflict.

The mandated study was initiated by notice on April 16, 1979 (44 FR 22543), and modified on January 31, 1980 (45 FR 7027). Study results for the ports along the coast of the Gulf of Mexico were published in the **Federal Register** on October 8, 1981 (46 FR 49989). The study for that region found strong public approval of the current system of fairways in the Gulf of Mexico and recommended that the existing Corps of Engineers fairways be adopted under PWSA authority. No major widening or lengthening of the fairways was proposed. The study report said, in part: "Experience with these fairways over the last fifteen years has shown them to be an effective routing measure in reducing the risk of vessel/structure collisions" (46 FR 49990). However, some minor modifications and additions are expected in future proposals based on the study.

In order to implement the PWSA, and the Port Access Route study recommendations, the Coast Guard has worked with the Corps of Engineers to coordinate the transfer of authority over shipping safety fairways in the Gulf of Mexico. Although it will be the responsibility of the Coast Guard to designate fairways, it will continue to be the responsibility of the Corps to enforce the regulation by denying permits for structures in the defined areas.

The Coast Guard is publishing these regulations as new Part 166 of Title 33, Code of Federal Regulations. All responsibilities in 33 CFR 209.135 which are not included under Coast Guard authority granted by PWSA and adopted in this action (i.e., permit-issuing procedures) will remain with the Corps of Engineers. Those regulations which remain in 33 CFR 209.135 and are duplicative of the Coast Guard fairway designations are expected to be deleted by the Corps of Engineers.

The following changes have been made in the text of the COE regulations in this adoption to reflect the changes in administration of these rules:

1. Section 209.135 has been moved to § 166.200.
2. In paragraph (b)(1) a cross reference to COE permit requirements has been added, and the words "Department of the Army" have been deleted.
3. In paragraph (b)(2) the words "Department of the Army may permit" have been deleted.
4. In paragraph (b)(2)(i) the words "district engineer" are changed to read "Corps of Engineers."
5. In paragraph (b)(2)(ii) the words "at least 500 feet from" are changed to "outside of."
6. Old subparagraph (iv) is deleted, following subparagraphs are re-numbered.
7. Old paragraph (b)(2)(v) is deleted; following subparagraphs are re-numbered.
8. In paragraph (b)(3) the words "Department of the Army" are deleted.
9. In paragraph (c) the words following "interested parties" are changed to read "in accordance with 92 Stat. 1473, 33 U.S.C. 1223(c)."

Regulatory Analysis

These regulations have been evaluated under E.O. 12291 and D.O.T. Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980, and have been determined to be neither significant nor major.

The Corps of Engineers originally developed these fairways under its permit-issuing authority to control structures on the waterways and promote navigation safety. The Ports and Waterways Safety Act (PWSA) specifically delegates fairways designation authority to the Department in which the Coast Guard is operating. The present action will merely adopt the existing fairways in the Gulf of Mexico.

Use of fairways is not mandatory. However, vessel operators may choose fairways as a more efficient and safe way of navigating through an area congested with platforms and artificial islands.

The presence of fairways can interfere with "direct drilling" of wells for oil and gas. In many cases, "slant" or "directional" drilling can be reasonably substituted for "direct drilling," though at a higher cost. The marginal cost of substitution can only be reasonably calculated on an ad hoc basis. This marginal cost depends heavily on: (1) Geological survey data; (2) estimated natural resource quantities; and (3) resource location. The cost of directional drilling can range from 40% to 50% over the cost of a direct, vertical drilling operation.

By comparison, the damage to a vessel caused by a vessel/structure casualty can range from $10,000 to $10,000,000. In addition, there may be injuries or loss of life, and environmental damage due to pollution. While the likelihood of such incidents cannot be established, fairways aid in reducing the risk of such incidents by providing efficient and safe routes for navigating through an area congested with platforms and artificial islands.

In a situation where the marginal cost of "slant drilling" outweighs benefits of having fairways at a specific site, changes to specific segments of a fairway can be made where necessary. The current fairway system as adopted is not now a controversial means of maintaining safe navigation, as concluded by the Port Access Route Study Report published on October 8, 1981, in 46 FR 49989.

Regulatory Flexibility Analysis

These rules are exempted from the requirements as set forth in the Regulatory Flexibility Act (sec. 603, Pub. L. 96-354; 5 U.S.C. 603(a)) because an NPRM is not required under 5 U.S.C. 553. This administrative action merely adopts existing regulations in 33 CFR 209.135 and places them in new part 33 CFR Part 166 without substantive change.

List of Subjects in 33 CFR Part 166

Anchorage grounds, Navigation (water).

In consideration of the foregoing, the Coast Guard proposes to amend Subchapter P, chapter I of Title 33 of the Code of Federal Regulations is amended as follows:

1. A new Part 166 is added to read as follows:

PART 166—SHIPPING SAFETY FAIRWAYS

Sec.
166.100 [Reserved]
166.200 Shipping safety fairways and anchorages, Gulf of Mexico.

Authority: Sec. 4(c), Pub. L. 95-474, 92 Stat. 1473 (33 U.S.C. 1223); 49 CFR 1.46(n)(4).

§ 166.100 [Reserved]

§ 166.200 Shipping safety fairways and anchorage areas, Gulf of Mexico.

(a) *Purpose.* Fairways and anchorage areas as described in this section are established to control the erection of structures therein to provide safe approaches through oil fields in the Gulf of Mexico to entrances to the major ports along the Gulf Coast.

(b) *Permits.* (1) Department of the Army Permits are required pursuant to law (30 Stat. 1151; 33 U.S.C. 403 and 92 Stat. 635; 43 U.S.C. 1333(e)) for work or structures in the Gulf of Mexico in coastal waters and the waters covering the Outer Continental Shelf. Permit requirements are described in Corps of Engineers regulations, 33 CFR Parts 320-330. The erection of structures will not be permitted in the areas designated as fairways since structures located therein would constitute obstructions to navigation, except that the temporary placement of anchors may be allowed by these regulations.

(2) Temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs may be placed within a fairway provided the following conditions are met:

(i) The installation of anchors within fairways to stabilize semisubmersible drilling rigs must be temporary and shall be allowed to remain only 120 days. This period may be extended by the Corps of Engineers provided reasonable cause for such extension can be shown and the extension is otherwise justified.

(ii) Drilling rigs must be outside of any fairway boundary to whatever distance is necessary to insure that minimum clearance over an anchor line within a fairway will be 125 feet.

(iii) No anchor buoys or floats or related rigging will be allowed on the surface of the water or to a depth of 125 feet from the surface, within a fairway.

(iv) Navigation aids or danger markings must be installed as required by the U.S. Coast Guard.

(3) Permits for the erection of structures within an area designated as an anchorage area may be granted, but the number of structures will be limited by spacing, as follows: The center of a structure to be erected shall be not less than two (2) nautical miles from the center of any existing structure. In a drilling or production complex, associated structures shall be as close together as practicable having due consideration for the safety factors involved. A complex of associated structures, when connected by walkways, shall be considered one structure for the purposes of spacing. A vessel fixed in place by moorings and used in conjunction with the associated structures of a drilling or production complex, shall be considered an attendant vessel and its extent shall include its moorings. When a drilling or production complex includes an attendant vessel and the complex extends more than five hundred (500) yards from the center of the complex, a structure to be erected shall be not closer than two (2) nautical miles from the near outer limit of the complex. An underwater completion installation in an anchorage area shall be considered a structure and shall be marked with a lighted buoy as approved by the United States Coast Guard.

(c) *Modification of the areas.* The fairways and anchorage areas are subject to modification but only after due notification and consideration of the views of interested parties, in accordance with 92 Stat. 1473; 33 U.S.C. 1223(c).

PART 209—ADMINISTRATIVE PROCEDURE

§ 209.135 [Amended]

2. New Part 166 is further amended by redesignating § 209.135(d) as § 166.200(d).

Dated: April 5, 1982.

R. A. Bauman,

Rear Admiral, Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-12865 Filed 5-11-82; 8:45 am]
BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Penalties—Violations of Seaway Regulations and Assessment, Mitigation or Remission of Penalties

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation is amending

Subpart B—Penalties—Violations of Seaway Regulations, and Subpart C—Assessment, Mitigation or Remission of Penalties, to reflect changes necessitated by the enactment of the Port and Tanker Safety Act of 1978 and the subsequent delegation of authority to the Administrator of the Saint Lawrence Seaway Development Corporation.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (315 764–3245).

SUPPLEMENTARY INFORMATION:

Background

On March 15, 1982, the Seaway Corporation published in the **Federal Register** (47 FR 11039) proposed amendments to Subparts B and Subpart C for the reasons set forth in the summary.

No comments were submitted in response to the notice of proposed rulemaking.

On October 17, 1978, the Port and Tanker Safety Act of 1978 was enacted, amending the Ports and Waterways Safety Act of 1972. On July 21, 1980, a Delegation of Authority to the Administrator of the Saint Lawrence Seaway Development Corporation from the Secretary of Transportation was published in the **Federal Register** (45 FR 48630). This delegated certain procedural functions vested in the Secretary of Transportation by the Port and Tanker Safety Act of 1978, and related to the power to issue and enforce regulations and conduct investigations under the Act with respect to the Saint Lawrence Seaway. As a result, § 401.101, Criminal Penalty, and § 401.102, Civil Penalty of Subpart B, are amended to reflect that a fine of not less than $5,000 is eliminated as a criminal penalty for violation of a Seaway Regulation. Provision is also made for penalties for any person who uses a dangerous weapon or engages in conduct that causes or threatens bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder. The civil penalty for violation of a Seaway Regulation is increased from $10,000 to $25,000. Also, § 401.201(a) and § 401.202 of Subpart C are amended to reflect the new delegation of authority under the Port and Tanker Safety Act.

The Saint Lawrence Seaway Development Corporation certifies that, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354) this final rule will not have a significant impact on a substantial number of small entities. The Seaway Regulations relate to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators, and therefore any resulting costs will be borne primarily by foreign vessels. On the other hand, the economic benefits derived from a safe and efficiently operated St. Lawrence Seaway are considerable. Finally, the Corporation has determined that this rulemaking is not a major Federal action affecting the quality of the human environment under the National Environmental Policy Act, and therefore an environmental impact statement is not required. Furthermore, it is not a major rule under Executive Order 12291, as noted in the DOT Semi-Annual Regulations Agenda and Review List published in the **Federal Register** October 1, 1981, nor a significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, for the same reason.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation is amending Title 33 of the Code of Federal Regulations as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart B—Penalties—Violations of Seaway Regulations

1. Section 401.101 is amended by revising paragraph (a) to read as follows:

§ 401.101 Criminal penalty.

(a) A person who willfully and knowingly violates a regulation shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both, and any person who, in the willful and knowing violation of this Act or any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in this paragraph be fined not more than $100,000 or imprisoned for not more than ten years, or both.

* * * * *

2. Section 401.102 is amended by revising paragraph (a) to read as follows:

§401.102 Civil penalty.

(a) A person, as described in § 401.101(b), who violates a regulation is liable to a civil penalty of not more than $25,000.

* * * * *

Subpart C—Assessment, Mitigation or Remission of Penalties.

3. Section 401.201 is amended by revising paragraph (a) to read as follows:

§401.201 Delegation of authority.

(a) The Secretary of Transportation, by 49 CFR 1.52(a) has delegated to the Administrator of the Saint Lawrence Seaway Development Corporation the authority vested in him under sections 4, 5, 6, 7, 8, 12 and 13 of SEC. 2 of the Port and Tanker Safety Act of 1978, Pub. L. 95–474 (92 Stat. 1471), as it pertains to the operation of the Saint Lawrence Seaway.

* * * * *

4. Section 401.202 is revised to read as follows:

§ 401.202 Statute providing for assessment, mitigation or remission of civil penalties.

Section 13 of SEC. 2 of the Port and Tanker Safety Act of 1978 authorizes the assessment and collection of a civil penalty of not more than $25,000 from anyone who violates a regulation issued under that section.

(68 Stat. 93–96, 33 U.S.C. 981–990, as amended; and secs. 12 and 13 of SEC. 2 of Pub. L. 95–474, 92 Stat. 1471)

Issued at Washington, D.C. on May 7, 1982.

Saint Lawrence Seaway Development Corporation.

D. W. Oberlin,

Administrator.

[FR Doc. 82–13075 Filed 5–12–82; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF EDUCATION

34 CFR Parts 655, 656, 657, 658, and 660

International Education Programs; Correction

AGENCY: Education Department.

ACTION: Final rule; Correction.

SUMMARY: On April 1, 1982 final regulations were published for the International Education Programs (47 FR 14114–14126). Several technical errors were made in the Summary of Comments and Responses section of the preamble.

FOR FURTHER INFORMATION CONTACT: Dr. Richard T. Thompson, 202–245–2356.

The errors are corrected to read as follows:

1. On page 14114, second column, first paragraph of the Summary of Comments and Responses, the last sentence is changed to read, "The old section numbers are followed by the new section numbers in parentheses."

2. On page 14115, first column, sixth paragraph, second line, the section number § 657.33(c) is changed to read § 657.40(b).

3. On page 14115, first column, last paragraph, last line, the section number § 656.10(a)(3) is changed to read § 656.10(a)(2).

4. On page 14115, third column, the fourth paragraph is changed to read as follows: *Response.* Section 658.36 is deleted. The duration of a project is covered by Direct Grant Programs, 34 CFR 75.250.

(Catalog of Federal Domestic Assistance Number 84.015, International Studies Centers and Foreign Language and Area Studies Fellowships; 84.016, International Studies Program and 84.017, Foreign Language and Area Studies Research)

Dated: May 3, 1982.

Daniel Oliver,

General Counsel.

[FR Doc. 82-12979 Filed 5-12-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIROMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2072-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA today is approving a revision to the Vigo County, Indiana sulfur dioxide (SO_2) State Implementation Plan (SIP). Indiana submitted this revision in response to Part D of the Clean Air Act (CAA). EPA proposed approval of this revision on September 1, 1981 (46 FR 43855), received comments from six groups, and is responding to their comments in today's notice.

EFFECTIVE DATE: This final rulemaking becomes effective on May 13, 1982.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller at (312) 886-6031 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Air Pollution Control, Vigo County Health Department, 120 S. Seventh Street, Terre Haute, Indiana 47807

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the CAA, EPA designated certain areas in each Region V State as nonattainment with respect to the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP), SO_2, carbon monoxide, ozone, and nitrogen dioxide.

Part D of the CAA requires each State to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary SO_2, NAAQS by December 31, 1982.

These SIP revisions must also demonstrate attainment of the secondary NAAQS as expeditiously as practicable. The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In response to Part D of the CAA, on June 26, 1979, the State of Indiana submitted revised SO_2 control strategies and Air Pollution Control Regulation 13 (APC-13) to EPA. This submittal included a control strategy for Vigo County that was developed by the Indiana Air Pollution Control Division and regulations which were promulgated by the State on June 19, 1979.

While the State developed its SO_2 plan for the County, an industrial task force developed its own control strategy. The Wabash Valley Environmental Association (WVEA), an organization of 20 local firms, submitted its county-wide plan to the Indiana Air Pollution Control Board (IAPCB) in September 1979. After reviewing the WVEA plan, the State agreed to substitute the WVEA plan for the State plan in APC-13. Consequently, on October 4, 1979, the IAPCB officially withdrew its control strategy for Vigo County, including the portion of APC-13 pertaining to Vigo County. On January 7, 1980, the State promulgated the WVEA SO_2 plan for Vigo County, including a revised APC-13 which incorporated the new Vigo County emission limitations.

On February 11, 1980, the State submitted to EPA its newly promulgated SO_2 control strategy for Vigo County. Technical support materials were submitted in September 1979, on December 10, 1979 and on May 30, 1980. The September 1979 submittal included the technical rationale for the new control strategy for SO_2 in Vigo County. The later submittals provided additional analyses to correct technical deficiencies in the initial submittal. The State recodified its SO_2 regulation APC-13 as 325 IAC Article 7 and submitted it to EPA on October 6, 1980. EPA proposed to approve the Vigo County SO_2 strategy on September 1, 1981 (46 FR 43855).

The Vigo County strategy consists of a general, statewide regulation, 325 IAC Article 7, and an appendix to the regulation (325 IAC 7-1-8) which establishes specific emission limitations for certain Vigo County sources, as well as for sources in other counties. On March 27, 1980, EPA proposed to approve, in part, the general, statewide SO_2 regulation, APC-13 (45 FR 20743). EPA proposed no action at that time on the Vigo County portion of APC-13. EPA has recently approved the recodified regulation, 325 IAC Article 7, with certain exceptions: it took no action on either the Vigo County strategy or the 30-day compliance method contained in the general regulation.

Today, EPA is approving the Vigo County portion of the SO_2 strategy. As with EPA's action on the general regulation, however, and as discussed more fully below, EPA will presently take no action on the 30-day averaging provision in the Vigo County strategy. EPA's detailed analysis of the Vigo County strategy is contained in an EPA technical memorandum and in the September 1, 1981 notice of proposed rulemaking. Both of these are available for review at the above addresses.

Public Comments

In response to its Notice of Proposed Rulemaking, EPA received comments from Indiana, three other States, Vigo County, and a local utility. Following is a summary of the significant comments and EPA's responses to each:

Comment: One commentor raised the following questions concerning the 10% derating of the Public Service Indiana (PSI) Wabash River power plant: a) is the derating enforceable; b) will the derating involve any physical changes; and c) can the load reduction be offset by increasing hours of operation?

Response: The 10% derating of the Wabash River power plant is contained in the State regulation and will become part of the federally approved SIP for Vigo County. EPA and the State maintain that the 10% derating in the capacity of the plant is properly enforceable, even though no physical changes to the plant are required, because compliance can be determined by reviewing charts, logs, and records kept by PSI. Because the plant was modeled assuming 24-hour continuous operations to determine its air quality impacts, any possible increase in the hours of operation will not affect attainment of the SO_2 standards.

Comment: PSI notified EPA that the new stack at its Wabash River plant will not be completed until July 1984. 325 IAC 7-1-6 requires compliance with the new regulations by December 1981, but allows the State to extend this deadline up to December 1982 under certain circumstances. The State has extended the compliance schedule for this plant until December 31, 1982. In PSI's comments, it requested an EPA extension of the compliance deadline or an exemption until July 1984.

Response: 325 IAC 7-1-6 requires that compliance be achieved by no later than December 31, 1981, except as noted above. EPA has no authority in the context of this rulemaking to extend the compliance date beyond that allowed by 325 IAC 7-1-6 or to exempt the Wabash River power plant from the compliance deadline. Any such request would have to be initiated by the State and would have to be the subject of separate rulemaking. Furthermore, EPA's Continuity Policy, as discussed in more detail below, does not normally allow a source additional time to come into compliance with a new, less stringent emission limitation.

The SIP relaxation to a 4.04 lbs/MMBTU emission limit for the Wabash River plant is based upon a new, taller stack. If the attainment demonstration had been based on the existing stacks, a different, probably more stringent, emission limit would be required for this plant. Therefore, EPA cannot approve the 4.04 lbs/MMBTU emission limit without also requiring that the new stack be in place. EPA is today approving the 4.04 lbs/MMBTU emission limitation for the Wabash River power plant, to be effective when the new stack is in place. Until that time, the existing SIP emission limit of 1.2 lbs/MMBTU remains applicable.

Comment: Several commentors urged EPA to approve the 30-day averaging provision in 325 IAC 7-1-3.

Response: EPA recognizes the problem of sulfur variability. Consequently, on February 14, 1980, EPA published a **Federal Register** Notice notifying the public that EPA had begun a review of its policies and procedures for regulating large coal-fired boilers. Among the issues under review are: a) compliance test methods; b) sulfur variability; c) modeling guidelines; and d) averaging periods for emission limitations. This review will address 30-day averaging, appropriate methods for evaluating 30-day averages, and protection of the NAAQS. Based on its review, EPA will make any necessary modifications in its policies. Until this review is complete, EPA will not rulemake on 30-day averaging in Vigo County. EPA has also announced its intention to proceed under an interim enforcement policy for Indiana, which will be used to establish the Agency's enforcement priorities (December 31, 1981, 46 FR 63270).

Comment: One commentor questioned the application of the RAM-urban model to Vigo County. The commentor claimed that this model is inappropriate because it does not consider terrain effects and because there was no analysis of the urban/rural status of the area. The commentor also asked if the model was calibrated.

Response: Prior to the modeling analysis, EPA classified the area as urban based on the general characteristics of the City of Terre Haute (i.e., city size, source density, and land use), where the majority of the sources are located. This procedure was consistent with the EPA urban/rural policy at the time the modeling began. Furthermore, since the terrain in the area is gently rolling (i.e., no significant terrain differences), EPA additionally determined that the reference model for Vigo County at that time should be RAM-urban. No calibration of the short-term RAM-urban model was attempted. This is appropriate because calibration of short-term models requires much more data than that which is available for most areas, including Vigo County. Uncertainties in Vigo County source and meteorological data restrict the ability to estimate the measured concentration at an exact location during a specific increment of time. These uncertainties prevent the calibration of short-term models, such as RAM-urban.

Comment: One commentor claimed that the modeling analysis was deficient because it used only one year of meteorological data, not five years as required by EPA guidelines.

Response: EPA has reviewed the issue of meteorological data and has determined that because EPA's policy required only one year of meteorological data for the Part D SIPs which were to be submitted by January 1, 1979, EPA is not requiring the State to remodel using 5 years of meteorological data. However, 5 years of appropriate meteorological data are currently available, and all future Vigo County modeling must use 5 years of data.

Comment: One commentor objected to the absence of area sources in the modeled emission inventory. The commentor maintained that the inclusion of area sources should increase the predicted annual concentrations enough to cause violations of the annual standard.

Response: Area sources were not modeled because an inventory was not available. Area sources are not expected to have a significant impact on Vigo County. All point sources in the County were considered, however, the impact from area sources was still included indirectly in the analysis through calculations of the background concentration. The derived background accounted for the impacts due to distant SO_2 sources, nearby area and small point sources, and natural sources. Consequently, inclusion of an area source inventory would be double-counting these source impacts and is, therefore, unnecessary.

Comment: One commentor claimed that the modeled concentrations should be running averages, not block averages.

Response: EPA modeling guidelines state that block averaging times should continue to be used for modeling purposes. Thus, modeled running averages are not required.

Comment: The States of New York and Connecticut raised a number of issues related to the potential interstate impacts of EPA's approval of the Vigo County plan. These States expressed a general concern that the Vigo County emissions, in combination with the SO_2 emissions from other midwest sources, will have a serious, detrimental impact on interstate air pollution levels. They also made the following additional, specific comments: 1) Approval of the

Vigo County strategy will result in increased SO_2 and TSP emissions. This will adversely affect the pollution levels in other states and thus an EPA approval would violate sections 110(a)(2)(E) and 126 of the CAA. 2) EPA and Indiana inappropriately utilized only short-range air pollution dispersion models, which are incapable of assessing long-range pollutant transport. 3) EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other States. 4) Approval of the Vigo County plan will result in increased downwind sulfate concentrations. 5) If EPA does not disapprove the Vigo County plan, it must defer its decision until the completion of certain proceedings now pending under Section 126 of the CAA.

Response: EPA's review and approval of the Indiana SO_2 SIP revision will not result in increased SO_2 and TSP levels, and thus is consistent with Sections 110(a)(2)(E) and 126 for several reasons. Because the emission limitations for Vigo County generally reflect status quo emissions or restrictions, no significant increase in SO_2 or TSP emissions and, consequently, no increase in net impact is expected. In addition, the J.I. Case and Anaconda Aluminum stack height changes are only minor increases up to 30 meters (m). EPA has determined that stack heights of up to 65 m may automatically be credited to most significant sources of SO_2 without violating section 123 of the CAA (February 8, 1982, 47 FR 5864). These two increases are well below EPA's de minimis stack height of 65 m. Further, because the PSI stack height change is accompanied by a derating requirement and a reduction from maximum status quo emissions, the expected net effect of today's rulemaking is to reduce PSI's actual impacts.

With regard to comments on the use of EPA reference models, EPA has not yet established any techniques which evaluate impacts beyond 50 kilometers (km) from a source. Consequently, contrary to the commentor's claim, there are no EPA-approved regulatory tools currently available to assess long-range impacts.

Pursuant to Section 110(a)(2)(E), EPA has reviewed this action for potential interstate impacts to the extent that EPA's modeling allows. The only State within 50 km of Vigo County is Illinois. There are no SO_2 nonattainment areas in Illinois within 50 km. There is only one county in Illinois within 50 km where the baseline date has been triggered. As discussed below, there are no problems concerning PSD increment consumption or violations of the NAAQS in Illinois.

The largest SO_2 source in Vigo County is the PSI Wabash River Plant, located about 13.5 km east of the Illinois State line. Modeling predicts the highest SO_2 concentrations to occur in the vicinity of the Wabash River Plant. The highest, second high 24-hour modeled concentration was 362 $\mu g/m^3$ and occurred at a receptor located 3 km east of the Plant. West of the Plant (towards Illinois), the high, second high impact was 323 $\mu g/m^3$, located 1.5 km WNW of the Plant and 12.5 km east of the State line. The predicted concentrations west of this receptor decrease to approximately 200 $\mu g/m^3$ within 10 km of the State line. Furthermore, a conservative screening analysis demonstrated that maximum concentrations in Illinois due to Vigo County sources are less than 90 $\mu g/m^3$. Because the concentrations are decreasing away from Vigo County in Illinois and concentrations due to Vigo County sources in Illinois are well below the NAAQS, no violations due to Vigo County sources are expected to occur in Illinois.

The closest major source in Illinois to the Indiana Border is outside the modeling range of 50 km. Consequently, EPA was unable to consider possible source interaction in Illinois. However, beyond 50 km the Illinois sources would almost certainly contribute far more than Indiana sources to ambient SO_2 concentrations.

EPA has also considered under section 110(a)(2)(E) whether revision of the emission limits for the named sources interferes with measures "required to be included in the applicable implementation plan for any other State under Part C to prevent significant deterioration of air quality * * *" A conservative screening analysis demonstrated that the net effect of the Vigo County plan would be to reduce PSI's actual impact on the Illinois PSD area. Therefore, EPA has concluded that the revised SIP will not interfere with Illinois' ability to prevent significant deterioration of its air quality.

With respect to Connecticut's claim that EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other States, EPA's currently approved models are not capable of such an analysis. EPA models estimate ground-level SO_2 concentrations caused by a plant's SO_2 emissions. Similarly, EPA models estimate ground-level particulate concentrations caused by a source's particulate matter emissions. Although models capable of estimating the impact of SO_2 emissions on ground-level particulate matter concentrations have been developed by researchers, EPA is still evaluating their predictive accuracy as part of an overall revision to its Modeling Guidelines. Application of these models at this time, therefore, is premature. For the purposes of section 110(a)(2)(E), EPA notes that the commentor has not submitted any information which demonstrates that the SO_2 emissions from the Vigo County sources contribute or impact particulate pollution in other States.

The sulfate question raised by the commentors is a complex one. To date, EPA has not established a national ambient air quality standard for sulfates. However, the sulfate issue is being evaluated as part of EPA's current review, under section 109(d)(1) of the CAA, 42 U.S.C. 7409(d)(1), of the criteria and national standards for sulfur oxides and particulate matter (see "Second External Review Draft Air Quality Criteria for Particulate Matter and Sulfur Oxides," and notice announcing comment period on draft, 46 FR 15569 (March 6, 1981)). At present, in the absence of a national standard for sulfates, EPA need not consider the impact of the Indiana SO_2 plan on sulfate levels.

On June 18 and 19, 1981, as a result of petitions filed by the States of New York and Pennsylvania under section 126 of the CAA, EPA held a hearing in Washington, D.C. to consider the possible interstate impact of a number of proposed and final SO_2 revisions for sources located in Indiana, Tennessee, Ohio, and West Virginia. (Docket No. A-81-9) To the extent that New York and Connecticut's comments to the Vigo County proposal relate to the same aggregate air quality impact issues as in the section 126 action, they will be addressed in the Agency's Section 126 determination. EPA is not required to delay a plan revision until it reaches a decision on a Section 126 petition. *Connecticut* vs *EPA*, 902 F 2d 656 (2d Cir. 1981). In light of the congressional mandate to act expeditiously under Part D of the Act, EPA does not believe that it would be appropriate to withhold the Vigo County rulemaking until EPA acts on the Section 126 petitions. At the time the Agency makes such a determination and to the extent necessary, EPA can and will reevaluate the adequacy of the Vigo County plan.

Based on its review, EPA approves, in part, the revised Vigo County SO_2 strategy as a revision to the SIP. The compliance dates contained in the current federally approved APC-13

(May 14, 1973) will continue to apply to those sources for which the revised SO_2 strategy contains less stringent emission limitations. In those cases where the revised SO_2 strategy requires more stringent emission limitations, the compliance timetables listed in Section 6 of 325 IAC Article 7 are approved in Vigo County. Section 6 requires final compliance by December 31, 1981. Sources subject to the plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements until such time as they come into compliance with the new Part D plan requirements.

EPA is presently taking no action on 30-day averaging. This will not affect approvability of the Vigo County strategy as a whole, because 325 IAC Article 7 contains an approvable compliance method, stack testing in accordance with 40 CFR Part 60, Appendix A Method 6. Article 7 also permits the Indiana Air Pollution Control Board to approve alternate compliance methods. Any such methods approved by the Board must be submitted to EPA for its action.

EPA has determined that good cause exists for making these revisions immediately effective and deviating from the requirement of 5 U.S.C. 553(d) (the Administrative Procedures Act) that substantive rules be published thirty days before their effective date. By making this final rulemaking immediately effective, some of the restrictions on industrial growth contained in Section 110(a)(2)(I) of the Clean Air Act will be lifted from the State of Indiana. These restrictions are imposed for failure to have a SIP which meets the requirements of Part D after the final date for SIP approval specified in the Act. EPA has determined that the Vigo County SO_2 SIP on the whole, meets the requirements of Part D. Therefore, it would be contrary to the public interest to continue the restrictions on industrial growth for thirty days after the publication of this notice.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It will impose no new requirements.

This regulation was exempted from review by the Office of Management and Budget under 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.

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

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

1. Section 52.770(c) is amended by adding subparagraph (31) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(31) On February 11, 1980, Indiana submitted a revised sulfur dioxide strategy for Vigo County. Technical information was submitted on December 10, 1979 and on May 30, 1980. On October 6, 1980, the State submitted a recodified version of the Vigo County Regulations, 325 IAC Article 7, which was promulgated by the State on August 27, 1980. EPA is not taking action on the 30-day averaging compliance method contained in 325 IAC 7-1-3 as it applies to Vigo County.

2. Section 52.773 is amended by revising paragraph (b) as follows:

§ 52.773 Approval status.

* * * * *

(b) The Administrator finds that the SO_2 strategies for Lake, LaPorte, Marion and Vigo Counties satisfy all requirements of Part D, Title I of the Clean Air Act as amended in 1977, except as noted below.

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[FR Doc. 82-13052 Filed 5-12-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 52 and 81

[A-5-FRL-2063-6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving the State of Ohio's sulfur dioxide (SO_2) emission limitations for portions of the following counties: Athens County: Columbus and Southern Ohio Electric (C&SOE)—Poston, Hamilton County: DuPont—Fort Hill, Montgomery County: Dayton Power and Light-Tait and Hutchings, Pike County: Southern Wood Piedmont, Seneca County: Union Carbide Fostoria Plant, and Wayne County: Orrville Municipal Power Plant. Additionally, EPA is redefining the SO_2 attainment area for Hamilton County into two distinct attainment areas. These revisions are based on the request and the supporting data submitted by the State of Ohio.

EFFECTIVE DATE: This final rulemaking becomes effective on June 14, 1982.

ADDRESSES: Copies of the Docket #5A-80-3 are on file for copying and inspection during normal business hours at the following address. (It is recommended that you telephone the contact person given below before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, 11th Floor, Chicago, Illinois 60604

Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460

Copies of the Ohio Administrative Code (OAC) Rules for this SIP revision are available for inspection in the Docket #5A-80-3 cited above and at:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control Division of Authorization and Compliance, 361 East Broad Street, 6th Floor, Columbus, Ohio 43215

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at 886-6088.

SUPPLEMENTARY INFORMATION: On November 13, 1981 (46 FR 55994), EPA proposed to approve the State of Ohio's sulfur dioxide emission limitations for the following sources: Athens County: Columbus and Southern Ohio Electric (C&SOE)—Poston, Hamilton County: