meeting them would disrupt the flow of "useful" information. It is a highly dubious proposition that advertisements of surveys in which items aren't chosen representatively or which draw conclusions which do not fairly represent the actual survey are particularly useful for anything. Apparently believing that elimination of these requirements did not weaken the order enough, the Commission also finally gave in to Kroger's central demand for an automatic "sunsetting" of the order after a short period of time.

Neither the record, the reasonable exercise of our remedial discretion, nor considerations of competitive equity compel these major concessions and modifications to the final order that was once deemed by the Commission to be a reasonable and restrained resolution of this case. The majority opinion authored by Commissioner Clanton set forth clear justification for the prescribed sampling methods and survey misrepresentation provisions that are deleted from the modified order. Nothing has persuaded me since that time that these provisions are now either unnecessary or unwarranted. As explained in some detail in the opinion, the prescribed sampling methods provided reasonable flexibility and specificity to Kroger on suitable means of sampling for its price surveys. Also, the general fencing-in prohibition on survey misrepresentations was reasonably related to the core deception in Kroger's price patrol, e.g., overall price claims which were misleading because they failed to disclose the systematic exclusion of large product categories from the survey.

With respect to the two-year sunset provision, there are better ways of responding to any legitimate concerns of potential competitive inequity that Kroger may have from being "singled out" by the Commission. These could include serving the order on Kroger's competitors under the Commission's Section 205 authority, and reconsidering the order in the future should the Commission demonstrate a refusal to hold Kroger's competitors to the same standards. These alternatives would strike a much better balance between the agency's interest in preserving the integrity of its record findings and enforcement credibility in this case, with Kroger's interest in avoiding unfair competitive injury. With the inclusion of the short-term sunset provision, the order loses all credibility in the industry, assuring that no Kroger competitor will feel obliged to obey it, even if placed on notice of its requirements by the Commission. Further, and even more damaging to the Commission's enforcement interests, such an automatic sunset provision (which to my knowledge is virtually unprecedented in consumer protection cases) would create an irresistible temptation for other respondents to demand similar sunset relief on competitive equity or other grounds, particularly in this era of deregulation and decreased enforcement activity. If the basis of the Commission's concession to Kroger's demand for automatic sunset protection is that a majority of the Commission no longer believes in its own findings of liability or its ability to defend them on appeal, then it would be more straightforward simply to admit mistake and dismiss the case. At the very least, that would avoid the dangerous precedent that will be set for our consumer protection mission by acceptance of this sunset provision.

As my colleagues know, I was not averse to settlement of this case on justifiable grounds. But I am not so anxious to settle that I would acquiesce to settlement on these terms. Yet it seems to me that it is precisely such an overwhelming urge to settle this case at all costs that has driven the Commission toward acceptance of this modified order.

Because I am not prepared to pay such a price, I am dissenting from the Commission's agreement with Kroger.

[FR Doc. 83-1449 Filed 1-18-83; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 890

[Docket No. R-82-1036]

Annual Contributions for Operating Subsidy Performance Funding System; Correction

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Correction of interim rule.

SUMMARY: On December 23, 1982 (47 FR 57270), HUD published an interim rule that amended 24 CFR Part 890 to reinstate the Rolling Base Period in determining the Allowable Utilities Consumption Level (AUCL) to be utilized by public housing agencies (PHAs) in the Performance Funding System (PFS) calculation of the Utilities Expense Level. The purpose of this correction is to indicate that waiver of Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535)(o)(3)) has been received.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: J. Milton Slifkin, Fiscal Management Division, (202) 426-1872.

Accordingly, the following correction is made to the Interim Rule in FR Doc. 82-34671 appearing at 47 FR 57271 in the issue of December 23, 1982:

(1) On page 57271, column two, the second full paragraph is corrected to read, "Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication. A waiver of this requirement has been received from the Chairman and Ranking Minority members of the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking Finance, and Urban Affairs."

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535))

Dated: January 13, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-1440 Filed 1-18-83; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

28 CFR Part 45

[Order No. 993-83]

Disqualification Arising From Personal or Political Relationships

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule.

SUMMARY: This rule provides for the disqualification of employees of the Department of Justice from participation in criminal investigations or prosecutions in which they may have a personal or political conflict of interest. The rule is required by statute and supplements the Department's current regulation on disqualifications arising from financial conflicts of interest.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Robert B. Shanks, Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, Washington, D.C. 20530 (202) 633-3657.

SUPPLEMENTARY INFORMATION: This order pertains to agency management. Publication for notice and comment is not required under 5 U.S.C. 553. Further, the order is not a rule within the meaning of, or subject to the requirements of, either Executive Order No. 12291 or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

PART 45—[AMENDED]

Accordingly, by the authority vested in me as Attorney General by 28 U.S.C. 528, Part 45 of Title 28, Code of Federal Regulations is amended by adding a new § 45.735-4, to read as follows:

§ 45.735-4 Disqualification arising from personal or political relationship.

(a) Unless authorized under paragraph (b) of this section, no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with: (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

(b) An employee assigned to or otherwise participating in a criminal investigation or prosecution who believes that his participation may be prohibited by paragraph (a) of this section shall report the matter and all attendant facts and circumstances to his supervisor at the level of section chief or the equivalent or higher. If the supervisor determines that a personal or political relationship exists between the employee and a person or organization described in paragraph (a) of this section, he shall relieve the employee from participation unless he determines further, in writing, after full consideration of all the facts and circumstances, that: (1) The relationship will not have the effect of rendering the employee's service less than fully impartial and professional; and (2) The employee's participation would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.

(c) For the purposes of this section.

(1) "Political relationship" means a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof; and

(2) "Personal relationship" means a close and substantial connection of the type normally viewed as likely to induce partiality. An employee is presumed to have a personal relationship with his father, mother, brother, sister, child and spouse. Whether relationships (including friendships) of an employee to other persons or organizations are "personal" must be judged on an individual basis with due regard given to the subjective opinion of the employee.

(d) This section pertains to agency management and is not intended to create rights enforceable by private individuals or organizations.

List of Subjects in 28 CFR Part 45

Conflict of interests.

Dated: January 6, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-1400 Filed 1-18-83; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AH305PA; A 3-FRL 2246-2]

Approval and Promulgation of Implementation Plans; Approval of Revision to the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves revisions to the Pennsylvania State Implementation Plan (SIP) submitted to EPA by the Pennsylvania Department of Environmental Resources (DER). The approved revisions consist of reasonably available control technology (RACT) regulations for most Volatile Organic Compound (VOC) sources covered by EPA's Group II Control Technique Guidelines (CTG) documents, a generic VOC bubble regulation, Continuous Emission Monitoring (CEM) regulations and procedures, and Alternative Opacity Limit regulations. EPA approves these revisions since it has determined that they meet the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51.

EFFECTIVE DATE: February 18, 1983.

ADDRESSES: Copies of Pennsylvania's SIP revision are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs & Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106

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

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120

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

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the address for EPA Region III above, or at telephone number (215) 597-8309.

SUPPLEMENTARY INFORMATION: EPA approved revisions to the Pennsylvania SIP submitted to EPA by the Pennsylvania DER. The approved revisions include RACT regulations for most VOC sources covered by EPA's Group II CTG documents, a generic VOC bubble regulation, CEM regulations and procedures, and Alternative Opacity Limit regulations. EPA approves these revisions since it has determined that they meet the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51. The approved Pennsylvania SIP revisions are briefly described in the sections that follow. Those wishing a more detailed discussion of the revisions are advised to consult the proposed approval notice of May 26, 1982 (47 FR 23186).

I. Pennsylvania's SIP Revision

A. Group II VOC Regulations

Pennsylvania's approved SIP revisions include RACT regulations for most VOC sources covered by EPA's Group II CTG documents. The approved regulations cover the following source categories: (1) Petroleum Refinery Fugitive Emissions (Leaks); (2) Synthesized Pharmaceutical Manufacturing; (3) Pneumatic Rubber Tire Manufacturing; (4) Surface Coating of Miscellaneous Metal Parts and Products; (5) Graphic Arts (Printing); (6) Gasoline Tank Trucksl (Leak Prevention); and (7) Petroleum Liquid Storage in External Floating Roof Tanks. The revisions are included in 25 PA Code Chapters 121, 129, and 139.

One regulation for a VOC source category covered by EPA's Group II CTG's, the Perchlorethylene Dry Cleaning regulation, has not been approved by EPA. Pennsylvania submitted a dry cleaning regulation to EPA that differs significantly from that adopted by most other states in that it does not specify an emission limit. Because an emission limit is not specified, add-on control equipment is not required. As noted in the proposal notice, EPA will take no action on this regulation at this time. EPA is reviewing the reactivity of perchloroethylene and will continue to defer action on this regulation until the study is completed.

B. Generic VOC Bubble Regulation

EPA approves Pennsylvania's regulatory provision entitled "Alternative Standards Allowing Internal Offsets for Surface Coating and Graphic Arts Facilities" as a generic bubble provision. The bubble provision provides that an eligible source need not necessarily be bound by the exact limitations for each process given in Pennsylvania's regulations, but may be bound by an alternative set of emissions limitations, provided that no increase in emissions results from the alternative set of limitations. Approval of this provision as a "generic" bubble provision has the effect that Pennsylvania will not require EPA approval of each individual bubble it approves. Pennsylvania's generic bubble provision is found in 25 Pennsylvania Code Chapter 129.53.

C. Continuous Emission Monitoring

EPA approves Pennsylvania's CEM regulations. These regulations require installation of CEM equipment on fossil fuel-fired steam generators, fluid bed catalytic cracking catalyst regenerators, and sulfuric acid plants in accordance with the EPA requirements specified in 40 CFR Part 51, Appendix P. Nitric acid plants are not required to install CEM equipment because there are no nitrogen dioxide nonattainment areas in Pennsylvania. EPA also finds that Pennsylvania's "Continuous Source Monitoring Manual" specifies monitoring procedures and specifications that satisfy the EPA requirements given in 40 CFR Part 51, Appendix P and 40 CFR Part 60, Appendix B. Pennsylvania's CEM provisions are contained in 25 PA Code, Chapters 123, 127, 129, and 139.

D. Alternative Opacity Limits

EPA approves Pennsylvania's regulatory provision allowing establishment of alternative opacity limits (AOLs). This provision allows a source which meets all applicable mass-emission standards, but which nevertheless does not meet existing opacity standards, to be granted an AOL. A source granted an AOL must nevertheless seek to minimize opacity by operating and maintaining its equipment in a manner that will minimize opacity. This approval does not allow Pennsylvania to establish an AOL for sources subject to opacity limits specified aby EPA in a New Source Performance Standard or an EPA issued Prevention of Significant Deterioration permit. If an AOL is desired for any source subject to such an EPA specified limitation, EPA approval of the AOL must be obtained pursuant to 40 CFR 60.11's requirements, or EPA approval of a PSD permit modification must be obtained, whichever is appropriate.

II. Comments

EPA received comments from two companies on the proposed revisions. These comments are described below.

A. Comment I

The first commenter stated that "the regulation referred to as The Generic VOC Bubble Regulation should be modified to make VOC limitations in Pennsylvania consistent with BACT (Best Available Control Technology) requirements in other States." The commenter goes on to say that "The reduction the formula developed by the DER (PA Department of Environmental Resources) requires creates a requirement that is almost always as tight as BACT and exceeds LAER (Lowest Achievable Emission Rate) for many types of coatings." The commenter argues that this level of control is more stringent than the level of control other States require.

EPA's response is that EPA is required to approve any generic bubble regulation submitted by a State that meets the criteria found in EPA's "Emission Trading Policy Statement" (47 Fed. Reg. 15076 (April 7, 1982)). EPA has reviewed Pennsylvania's generic bubble and has determined that it meets all Federal criteria for approval. It should be noted that if the commenter believes the requirements of Pennsylvania's generic "bubble" regulations are too strict, the commenter has the option of complying with Pennsylvania's BACT requirements instead of applying for a "bubble."

B. Comment II

The second commenter was concerned by Pennsylvania's regulation requiring installation of continuous opacity monitoring equipment on fossil fuel-fired steam generators with 250 million BTU heat input or greater. The commenter stated that it believed this regulation should not require continuous monitors in cases "where there is no demonstrated need for opacity monitors, such as utility boilers equipped with baghouses."

EPA has approved Pennsylvania's CEM regulations because it has determined that they meet the requirements for EPA approval specified in 40 CFR 51.19; those requirements permit no exemption such as the commenter suggests. EPA would be required to revise 40 CFR 51.19 in accordance with the commenter's suggestions before any State could submit a regulation to EPA containing exemptions such as the commenter desires. As a result of this comment, EPA is now considering whether changes in 40 CFR 51.19 are appropriate. If EPA eventually makes such changes, Pennsylvania will then have the option of adopting CEM requirements consistent with the commenter's suggestions.

III. Conclusion

EPA is revising 40 CFR 52.2520 as indicated below to indicate the inclusion in the Pennsylvania SIP of these SIP revisions.

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, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 21, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

(42 U.S.C. 7401–7642.)

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended by adding paragraph (c)(48) to § 52.2020 to read as follows:

Subpart NN—Pennsylvania

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(48) Volatile Organic Compound (VOC) regulations, a generic VOC bubble regulation, Continuous Emission Monitoring (CEM) regulations and procedures, and Alternative Opacity

Limit regulations submitted by Pennsylvania to EPA on July 13, 1981, August 17, 1981, August 26, 1981, and September 4, 1981.

* * * * *

[FR Doc. 83-1346 Filed 1-18-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-6-FRL 2259-3]

State of Oklahoma: Designation Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves the Oklahoma State Department of Health (OSDH) July 2, 1982, request to change Oklahoma County's existing nonattainment designation for ozone to attainment. On October 22, 1982, and November 3, 1982, the OSDH submitted additional information to support their request.

DATE: This action will be effective on March 21, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Incorporation by reference materials is available for inspection during normal business hours at the following locations:

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

Environmental Protection Agency, Public Information Reference Unit, EPA Library Rm. 2404, 401 M Street, SW., Washington, D.C. 20460

Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

Oklahoma State Department of Health, Air Quality Service, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith, State Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270 (214) 767-9853.

SUPPLEMENTARY INFORMATION: On July 2, 1982, the OSDH submitted a SIP revision requesting redesignation of Oklahoma County to attainment for ozone. On October 22, 1982, and November 3, 1982, the OSDH submitted additional information to support their request. EPA developed an evaluation report [1] based on conformance with criteria from the Clean Air Act of 1977, as amended, Section 107(d)(5); 40 CFR 50.9 National primary and secondary ambient air quality standards for ozone; 40 CFR Part 50, Appendix H—Interpretation of the National Ambient Air Quality Standards for Ozone; and, Guideline for Interpretation of Ozone Air Quality Standard, January 1979. This evaluation report is available for inspection during normal business hours at the EPA Region 6 Office and the other addresses listed above.

The State provided 1980, 1981, and 1982 ozone data for site 372200033F01. Since site 033 had one violation in 1980, EPA's redesignation to attainment is based on data for the last 3 years (1980, 1981, and 1982) from this site.

Site 033 had 1.1 expected number of exceedances in 1980, and 0.0 expected number of exceedances in 1981 and 1982. Therefore, Oklahoma County is attainment for ozones since the average of the expected number of exceedances is less than 1 for the past 3 years.

Based upon EPA's review of the 1980, 1981, and 1982 data, EPA is redesignating Oklahoma County from nonattainment to attainment.

Because EPA considers today's action to be noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on March 21, 1983. However, if we receive notice by February 18, 1983, that someone wishes to submit critical comments, *then* EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeal for the appropriate circuit by March 21, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

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

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

[1] EPA Review of Oklahoma's Revisions for redesignation of Oklahoma County to attainment for Ozone.

Dated: January 12, 1983.

Anne M. Gorsuch,
Administrator.

PART 81—[AMENDED]

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

1. In § 81.337 Oklahoma, the attainment status designation table for Oxidant (O_x) is amended by revising the designation for Oklahoma County from "does not meet primary standards," to cannot be classified or better than national standards." The amended portion of the Oklahoma O_x Table for § 81.337 reads as set forth below.

§ 81.337 Oklahoma.

OKLAHOMA—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
AQCR 184:		
Oklahoma Co		X.
Cleveland Co		X.
Remainder of AQCR		X.
* * * * *		

[FR Doc. 83-1388 Filed 1-18-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[W-8-FRL 2276-6]

Utah Division of Environmental Health Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Utah has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the States's injection well program for Classes I, III, IV, and V injection wells meet the requirements of Section 1422 of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval is effective January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Salazar, Chief, Utah/Montana/South Dakota Section, Drinking Water Branch, Environmental