

evasive action when maneuvering through New York Harbor or approaching and departing the terminal. This safety zone regulation requires each person to comply with the general safety zone regulations contained in 33 CFR 165.23 which prohibits persons from entering the safety zone without the authorization of the Captain of the Port. Mariners will be provided advance notice of scheduled LPG vessel harbor transits through the Port of New York via Marine Safety Information Radio Broadcast.

EFFECTIVE DATE: July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Peter C. Blaisdell, Acting Port Safety Officer, Captain of the Port, New York, Building 109, Governors Island, NY 10004, telephone (212) 668-7834.

SUPPLEMENTARY INFORMATION: On March 29, 1984, the Coast Guard published a notice of proposed rulemaking in the Federal Register for this regulation (49 FR 12282). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are Lieutenant Gary W. Chappell, project officer, Captain of the Port, New York, and, Ms. M. A. Arisman, project attorney, Third Coast Guard District Legal Office.

Discussion of Comments

No comments were received regarding the proposed rule and no changes have been made in the final rule.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Its economic impact is expected to be minimal since the theory and practice of establishing a safety zone around a loaded LPG vessel has been in effect for many years. Small and large companies with vessels operating in New York Harbor are aware of scheduled LPG vessel harbor transits and adjust their vessel movements accordingly causing minimum economic impact.

Since the impact of this regulation is expected to be minimal the Coast Guard certifies that it will not have a

significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.310 to read as follows:

§ 165.310 New York, New Jersey, Sandy Hook Channel, Raritan Bay, Arthur Kill-Safety Zone.

(a) The following areas are established as Safety Zones during the specified conditions:

(1) For incoming tank vessels loaded with Liquefied Petroleum Gas, the waters within a 100 yard radius of the LPG carrier while the vessel transits the Sandy Hook Channel, Raritan Bay East and West Reach, Ward Point Bend East and West Reach, and the Arthur Kill to the LPG receiving facility. The Safety Zone remains in effect until the LPG vessel is moored at the LPG receiving facility in the Arthur Kill.

(2) For outgoing tank vessels loaded with LPG, the waters within a 100 yard radius of the LPG carrier while the vessel departs the LPG facility and transits the Arthur Kill, Ward Point Bend West and East Reach, Raritan Bay West and East Reach, and Sandy Hook Channel. The safety zone remains in effect until the LPG vessel passes the Scotland Lighted Horn Buoy "S" (LLNR 1619) at the entrance to the Sandy Hook Channel.

(b) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(c) The Captain of the Port will notify the maritime community of periods during which this safety zone will be in effect by providing advance notice of scheduled arrivals and departures of loaded LPG vessels via a Marine Safety Information Radio Broadcast.

(33 USC 1225 and 1231; 49 CFR 1.46; 33 CFR 160.5)

Dated: May 31, 1984.

James L. McDonald,
Captain, U.S. Coast Guard, Captain of the Port, New York

[FR Doc. 84-16601 Filed 6-20-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251 and 261

Special Uses; Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises parts of the existing 36 CFR 251 and 261 by more clearly defining who is required to have a special-use authorization for recreation use of National Forest System lands. It also makes technical and editorial changes to clarify other parts of the existing rules.

EFFECTIVE DATE: June 21, 1984.

ADDRESS: Comments or questions on these final rules may be addressed to: R. Max Peterson, Chief, (2340), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: David A. Hammond, Recreation Staff, Room 4247—South Building, 12th and Independence Avenue SW., Washington, D.C. 20013, (202) 447-2311.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service, USDA, has the responsibility for management of recreation resources on 190 million acres of National Forest, National Grassland and other lands known collectively as the National Forest System. Present regulations governing use of these lands do not adequately explain when advanced permission is required for certain recreation activities and assemblies.

Ambiguous language in the present regulations sometimes leads to confusion by the public and could result in lack of uniform application by Forest Officers. Changes in terminology and conflicting wording in the existing rule have necessitated technical and editorial updating of other parts of 36 CFR Part 251 and of 36 CFR Part 261.

Analysis of Public Comment

Analysis of the present regulation through administrative appeals and court challenges has indicated the need to clarify certain parts relating to what types of recreation uses of National Forest lands require a written authorization and who is required to have such authorization.

A proposed revision of the present regulation was published August 4, 1983, at 48 FR 35465.

The proposed rule generated little public interest. A total of eleven (11)

responses were received on the proposal, distributed as follows:

Type of respondent	Number of comments received	Percent of the total
Citizens.....	2	18
Environmental Organization.....	1	9
Forest Service Units.....	7	64
Government, excluding U.S.D.A.	1	9
Total.....	11	100

The majority of comments were very specific in nature and contained recommendations applicable to particular sections of the rule. Most of the comments were of a technical nature regarding rewording certain sections to provide additional clarity. The public comments were from two individuals belonging to an organization which objects to the permitting process on the basis of constitutional rights.

All suggestions and comments were reviewed and considered in preparation of this final rule. Responses are available for review at the office of the Director of Recreation, Forest Service, USDA, Room 4241 South Agriculture Building, 12th & Independence Avenue SW., Washington, D.C.

The following summarizes the major comments and suggestions received on the proposed revision of 36 CFR Part 251 and 36 CFR Part 261, and the Department's response to these comments. Comments are keyed to the section numbers and headings of the proposed rule document.

Section 251.51 Definitions.

Comment: Most respondents suggested that the word "not" had been left out of the definition of recreation event where it refers to an event " * * * that involves competition, entertainment, or training such as, but (not) limited to animal or vehicle races * * * "

Response: This exclusion resulted from a printing error. The word "not" is added to the text in the final rule.

Comment: A respondent questioned why the wording "by ten (10) or more participants and/or spectators" contained in the definition of recreation event is excluded from the definition of special event.

Response: Analysis of the definition of the two types of events indicates that there is no reason to exclude the criterion of ten (10) or more participants from the definition of special event, and it has been added as suggested.

Section 251.53 Special use authorizations.

Comment: It was pointed out that the authority cited for issuance of

authorizations for special events should be under the Act of June 4, 1897 (16 U.S.C. 551), instead of the Land and Water Conservation Fund Act of September 3, 1964 (16 U.S.C. 4601).

Response: The term "special event" has been added to § 251.53(a) which now reads "Permits governing occupancy and use, including special events, under the Act of June 4, 1897 (30 Stat. 35: 16 U.S.C. 551)". The term is eliminated from part 251.53(k).

Comment: A respondent pointed out that reference to issuing a permit for "specialized recreation uses" had been eliminated from 251.53(k) and they felt this should be reinstated since it is specifically provided for in the law.

Response: In the final rule the term "other specialized recreation uses" is added to 251.53(k). With this change and with deletion of the L&WCF citation for "special event", 251.53(k) will read "Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601-6a(c)), for recreation events and other specialized recreation uses".

Section 251.54 (i) Denial of application for special event.

Comment: Two letters were received from, and a meeting held with, one group that uses the National Forests for annual gatherings. This group objects to the rule on the basis that the requirement to obtain a written authorization to gather on National Forest land violates their rights under the First Amendment to the Constitution.

Response: Recent court cases have held that while groups have the right under the First Amendment to gather on Federal lands, the land managing agencies have the responsibility and the authority to control that use through an authorization (permit) process. The existing rule requires all groups to have a special use permit. The revised rule severely restricts the reasons for which a Forest Officer may deny an authorization for a special event. Therefore, the final rule has not been changed on the basis of this concern.

Section 261.3 Interfering with a Forest Service officer, volunteer or "hosted enrollee" or giving false report to a forest officer.

Comment: One respondent suggested that the term "hosted enrollee" be changed to read "human resources program enrollee". The term "hosted enrollee" is vague and may not include such programs as the Senior Community Service Employment Program or others which are highly visible to the public at National Forest facilities.

Response: The term "human resources program enrollee" was substituted, in the final rule, for the term "hosted enrollee".

The proposed rule also makes technical and conforming amendments to certain sections of 36 CFR Part 261, which set forth those activities that are prohibited on National Forest System lands. Comments on proposed revisions to Part 261 are given below.

Section 261.9 (f) Property.

Comment: An environmental organization wanted the words fungicide and herbicide added to this section to make it read "Using any pesticide, fungicide, or herbicide except for personal use as * * * "

Response: The word pesticide is a generic word which applies to insecticides, fungicides, herbicides or any other agent used to control plant or animal pests. The rule, as proposed, will provide the protection this group wants.

Section 261.10(m) Occupancy and Use.

Comment: One respondent suggested that the word "rental" be eliminated from part (m) and that it be revised by adding "or other charges" to read: "(m) Failing to pay any special use fee or other charges as required."

Response: This recommendation was adopted and incorporated in the final rule.

Section 261.16(b) National Forest Wilderness.

Comment: The proposed rule would revise paragraph (b) to exclude the word "bicycle" from the provision prohibiting "(b) Possessing or using a hang glider or bicycle". It was pointed out that there is a conflict between this section and 261.57(h) which states that bicycles are prohibited from wildernesses when provided by an order.

Response: The reference to bicycle was supposed to be retained in 261.16(b) and eliminated from 261.57(h). Section 261.16(b) will not be changed in this revision. The final rule revises 36 CFR 261.57(h) to exclude the word "bicycle".

With incorporation of the changes noted above, the final rule establishes uniform guidelines for requiring a special-use authorization for recreational activities and special events on National Forest System lands while allowing flexibility needed to meet special conditions of particular areas. This uniformity will assure better understanding by the public of the circumstances under which they are required to have an authorization for use of National Forest land. This will, in turn, reduce the amount of time required

to administer National Forest units and reduce instances where law enforcement action is required.

This action has been reviewed pursuant to Executive Order 12291. It has been determined that this action is not a major rule and does not require a regulatory impact analysis. The rule will have no impact on the economy and will result in no increase in cost or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions. The rule will have no effect on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Secretary for Natural Resources and Environment has determined that this action does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), because the action will not have a significant economic impact on a substantial number of small entities; it imposes no paperwork or recordkeeping requirements on small entities; it does not affect the competitive position of small entities in relation to large entities; and it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

There are no new paperwork or information collection requirements contained in the rule. Any authorizations issued pursuant to this rule will be applied for on Forest Service Form 2700-3 which has previously been approved for use by the Office of Management and Budget and assigned Control Number 0596-0082.

List of Subjects in 36 CFR Parts 251 and 261

Administrative practice and procedure, Law enforcement—prohibitions, National Forests, and Public lands—Permits.

Therefore, for the reasons set forth in the preamble, Parts 251 and 261 of Title 36 of the Code of Federal Regulations are amended as follows:

PART 251—LAND USES [AMENDED]

1. The authority citation for 36 CFR Part 251 reads as follows:

Authority: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, Sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472), 90 Stat. 2776 (43 U.S.C. 1761-1771), unless otherwise noted.

Other authorities are listed in 36 CFR 251.53.

2. In 36 CFR 251.50, paragraphs (a), (c), and (d) are revised to read as follows:

§ 251.50 Special uses.

(a) All uses of National Forest System land, improvements, and resources, except those provided for in the regulations governing the disposal of timber (Part 223) and minerals (Part 228) and the grazing of livestock (Part 222), are designated "special uses" and must be approved by an authorized officer.

(c) With the exception of "recreation events" and "special events" as these terms are defined in § 251.51 of this part and unless otherwise provided by order issued under § 261.50 or by regulation issued under § 261.70 of this Chapter, special-use authorization is not required for the noncommercial use or occupancy of National Forest System lands or facilities for camping, picnicking, hiking, fishing, hunting, horse riding, boating, or similar recreational activity.

(d) Unless otherwise required by order issued under § 261.50 or by regulation issued under § 261.70 of this Chapter, the use of existing forest development roads and trails does not require a special-use authorization; however, any such use is subject to compliance with all Federal and State laws governing the roads or trails to be used.

3. 36 CFR 251.51 is amended by redesignating paragraphs (i), (j), (k), and (l) as (j), (k), (m), and (n) respectively, and adding new paragraphs (i) and (l) to read as follows:

§ 251.51 Definitions.

(i) "Recreation event"—a planned, organized, or publicized recreational activity engaged in by a total of ten (10) or more participants and/or spectators, that involves competition, entertainment, or training such as, but not limited to, animal or vehicle races or rallies, dog trials, fishing contests, rodeos, fairs, regattas, and games.

(l) "Special event"—a meeting, assembly, demonstration, parade, or other activity, engaged in by ten (10) or more participants and/or spectators, for the purpose of expression or exchange of views or judgments.

4. In 36 CFR 251.53, paragraph (a) and paragraph (k) are revised to read as follows:

§ 251.53 Authorities.

Special-use authorizations may be issued for:

(a) Permits governing occupancy and use, including special events, under the

act of June 4, 1897, 30 Stat. 35 (16 U.S.C. 551);

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601-6a(c)), for recreation events and other specialized recreation uses;

5. In 36 CFR 251.54, the heading and introductory clause of paragraph (h) is revised and a new paragraph (i) is added to read as follows:

§ 251.54 Special use applications.

(h) Denial of applications for a special use other than a special event. An application for a special use other than a special event may be denied if the authorized officer determines that:

(i) Denial of application for special event. An application for a special event shall be granted unless the authorized officer determines that:

(1) The special event would conflict with another use which has been previously approved by special use authorization, contract, or approved operating plan, under this Part or Part 222, 223, or 228 of this Chapter; or

(2) The special event would present a clear and present danger to the public health or safety; or

(3) The special event would be of such nature or duration that it could not reasonably be accommodated in the particular place and time applied for; or

(4) The application proposes activities that are contrary to the provisions of Part 261 of this Chapter or the provisions of any other Federal or State criminal law.

When an application is denied on the basis of paragraph (i)(1) or (i)(3) of this section, the authorized officer shall provide the applicant the opportunity to accept an alternative site or time selected by that officer.

PART 261—PROHIBITIONS [AMENDED]

6. The table of contents for 36 CFR Part 261 is amended by removing § 261.3a and by revising the entry for § 261.3 to read as follows:

Sec.

261.3 Interfering with a Forest Officer, volunteer, or human resource program enrollee or giving false report to a Forest Officer.

7. The authority citation for 36 CFR Part 261 reads as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 1011, (f)); 82 Stat. 916 (16 U.S.C. 1281(d)); 82 Stat. 922 (16 U.S.C. 1246, (i)), unless otherwise noted.

8. 36 CFR 261.1a is revised to read as follows:

§ 261.1a Special use authorizations, contracts and operating plans.

The Chief, each Regional Forester, each Forest Supervisor, and each District Ranger or equivalent officer may issue special-use authorizations, award contracts, or approve operating plans authorizing the occupancy or use of a road, trail, area, river, lake, or other part of the National Forest System in accordance with authority which is delegated elsewhere in this Chapter or in the Forest Service Manual. These Forest Officers may permit in the authorizing document or approved plan an act or omission that would otherwise be a violation of a Subpart A or Subpart C regulation or a Subpart B order. In authorizing such uses, the Forest Officer may place such conditions on the authorization as that officer considers necessary for the protection or administration of the National Forest System, or for the promotion of public health, safety, or welfare.

§ 261.2 [Amended]

9. 36 CFR 261.2 is amended by inserting, in correct alphabetical order, the definition of "special use authorization" to read as follows:

"Special-Use Authorization" means a permit, term permit, lease or easement which allows occupancy, or use rights or privileges of National Forest System land.

§ 261.3a [Amended]

10. The text of 36 CFR 261.3a is revised and redesignated as paragraph (c) of 36 CFR 261.3, and the heading for § 261.3 is revised to read as follows:

§ 261.3 Interfering with a Forest officer, volunteer, or human resource program enrollee or giving false report to a Forest officer.

(c) Threatening, intimidating, or intentionally interfering with any Forest officer, volunteer, or human resource program enrollee while engaged in, or on account of, the performance of duties for the protection, improvement, or administration of the National Forest System or other duties assigned by the Forest Service.

11. In 36 CFR 261.6, paragraphs (a) and (h) are revised to read as follows:

§ 261.6 Timber and other forest products.

The following are prohibited:

(a) Cutting or otherwise damaging any timber, tree, or other forest product, except as authorized by a special-use authorization, timber sale contract, or Federal law or regulation.

(h) Removing any timber, tree or other forest product, except as authorized by a special-use authorization, timber sale contract, or Federal law or regulation.

12. In 36 CFR 261.9, paragraph (f) is revised to read as follows:

§ 261.9 Property.

(f) Using any pesticide except for personal use as an insect repellent or as provided by special-use authorization for other minor uses.

13. In 36 CFR 261.10, paragraph (a), (b), (c), (g), (i), (j), and (k) are revised and paragraph (m) is added to read as follows:

§ 261.10 Occupancy and use.

The following are prohibited:

(a) Constructing, placing, or maintaining any kind of road, trail, structure, fence, enclosure, communication equipment, or other improvement on National Forest system land or facilities without a special-use authorization, contract, or approved operating plan.

(b) Taking possession of, occupying, or otherwise using National Forest System lands for residential purposes without a special-use authorization, or as otherwise authorized by Federal law or regulation.

(c) Selling or offering for sale any merchandise or conducting any kind of work activity or service unless authorized by Federal law, regulation, or special-use authorization.

(g) Posting, placing, or erecting any paper, notice, advertising material, sign, or similar matter without a special-use authorization.

(i) Operating or using a public address system, whether fixed, portable or vehicle mounted, in or near a campsite or developed recreation site or over an adjacent body of water without a special-use authorization.

(j) Use or occupancy of National Forest System land or facilities without special-use authorization when such authorization is required.

(k) Violating any term or condition of a special-use authorization, contract or approved operating plan.

(m) Failing to pay any special use fee or other charges as required.

14. In 36 CFR 261.12, paragraph (a) is revised to read as follows:

§ 261.12 Forest development roads and trails.

The following are prohibited:

(a) Violating the load, weight, height, length, or width limitations prescribed by State law except by special-use authorization or written agreement or by order issued under § 261.54 of this Chapter.

15. In 36 CFR 261.14, paragraph (p) is revised to read as follows:

§ 261.14 Developed recreation sites.

(p) Distributing any handbill, circular, paper or notice without a special-use authorization.

16. In 36 CFR 261.17, paragraph (c) is revised to read as follows:

§ 261.17 Boundary Waters Canoe Area, Superior National Forest.

(c) Using wheels, rollers, or other mechanical devices for the overland transportation of any watercraft, except by special-use authorization, or as authorized by Federal law or regulation.

17. 36 CFR 261.18 is revised to read as follows:

§ 261.18 Pacific Crest National Scenic Trail.

It is prohibited to use a motorized vehicle on the Pacific Crest National Scenic Trail without a special-use authorization.

18. 36 CFR 261.57 paragraph (h) is revised to read as follows:

§ 261.57 National Forest Wilderness

(h) Possessing or using a wagon, cart or other vehicle.

Dated: June 8, 1984.

Douglas W. MacCleery,
Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 84-16480 Filed 6-20-84; 8:45 am]

BILLING CODE 3410-11-M

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Parts 52 and 81****[OAR-FRL-2612-5; TN-011]****Approval and Promulgation of
Implementation Plans, Designation of
Areas for Air Quality Planning
Purposes; Tennessee; Redesignation
of TSP, SO₂ and Ozone Areas****AGENCY:** Environmental Protection
Agency.**ACTION:** Final rule.

SUMMARY: EPA is today approving certain requests by Tennessee to redesignate a number of counties for particulate (TSP), sulfur dioxide (SO₂), and ozone (O₃). Other redesignation requests made by Tennessee are not being approved because they are not adequately supported by data or other demonstration required by EPA redesignation policy. This action was proposed in the October 13, 1983, Federal Register (48 FR 46549). A public comment period was announced, and it is noted here that comments were received.

EFFECTIVE DATE: This action is effective July 23, 1984.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the appropriate location:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street SW., Washington, D.C. 20460
Environmental Protection Agency,
Region IV, Air Management Branch,
345 Courtland Street NE, Atlanta, GA
30365

Division of Air Pollution Control,
Tennessee Department of Health and
Environment, 150 9th Avenue North,
Nashville, Tennessee 37203

Library, Office of Federal Register, 1100
L Street NW., Room 8401,
Washington, D.C. 20005.

Also, a Technical Support Document in which the criteria upon which EPA evaluated the State's requests is set forth, may be examined at the Public Information Reference Unit (address given above).

FOR FURTHER INFORMATION CONTACT:
Raymond S. Gregory, EPA Region IV Air
Management Branch, at the Atlanta
address above, telephone 404/881-3286
[FTS 257-3286].

SUPPLEMENTARY INFORMATION: Section 107 of the Clean Air Act provides for changes in attainment status designation by the Administrator. Tennessee has submitted several

requests that EPA promulgate new air quality classifications for various areas with respect to various pollutants. The criteria upon which EPA evaluated these requests is set forth in a Technical Support Document (TSD) that has been placed in the rulemaking record for this Agency action. The TSD explains the basis and the purpose behind the action taken today.

Tennessee submitted a petition requesting redesignation of certain nonattainment and unclassified areas on December 9, 1982. After EPA had commented on the requests, Tennessee requested reconsideration of certain areas and supplied supplemental information on January 21, 1983. In addition to requesting the changes in attainment status designation, Tennessee has revised its State Implementation Plan (SIP), changing the list which identifies the nonattainment areas in the State; these changes were submitted to EPA on January 19, 20, and 21, February 9, March 4, 14, and 22, April 6, and June 1, 1983, as SIP revisions.

As reported in the October 14, 1983, proposal notice (40 FR 46550) EPA would not consider the following changes requested by Tennessee for the reasons stated: Shelby County, from nonattainment to attainment for ozone, because the calculated number of expected exceedances is greater than 1.0; Fayette and Tipton Counties, from unclassified to attainment for ozone, because they are in the same air shed as Shelby County and influenced by its urban impact; Bradley County, from nonattainment to unclassified for ozone, because no air quality data or emission reduction summary was available with which to determine the status of this county; and a portion of LaFollette, from primary and secondary nonattainment for TSP to secondary nonattainment, because although four quarters of air quality data were submitted, the State was unable to identify commensurate emission reductions.

EPA originally proposed (40 FR 46550) to approve the redesignation of the Nashville area (Davidson, Rutherford, Sumner, Williamson, and Wilson Counties) from nonattainment to attainment for ozone. However, subsequent analysis of the ozone data for 1983 shows that the calculated number of expected exceedances for the downwind monitoring site for this group of counties which are in a common airshed is greater than 1.0. As a result, EPA is not taking final action on the redesignation of the Nashville area for ozone. Reconsideration of this requested redesignation will be made after the 1984 ozone data is analyzed.

On the basis of eight quarters of data showing attainment plus implementation of an approved SIP, EPA proposed to redesignate the following areas from TSP nonattainment, primary and secondary, to secondary nonattainment only: portions of Davidson and Hamilton Counties; and on the basis of four quarters of data plus a demonstration of emission reduction, it was proposed to redesignate the following areas from TSP nonattainment primary and secondary, to attainment for all TSP standards: portions of Campbell, Sullivan, and Shelby Counties.

Also, on the basis of eight quarters of data, EPA proposed to redesignate the following areas from SO₂ nonattainment, primary and secondary: portions of Benton and Humphreys Counties to secondary nonattainment only, and a portion of Polk County to attainment for all SO₂ standards.

On the basis of a demonstration that emission densities are equal to or less than other rural areas where monitoring data shows attainment, it was proposed to change the designation of Grainger County, Jefferson County, and the unclassifiable areas in AQCR's 007 (Tennessee portion), 207, 208, and 209 (except Fayette and Tipton Counties) from ozone unclassifiable to attainment. On the basis of four quarters of data plus a demonstration of emission reduction, it was proposed to redesignate the following ozone nonattainment areas to attainment: Knox County, Maury County, and Sullivan County. Public comments were as follows:

Comments

(1) One representative of an industrial source wrote in support of the reclassification of the Kingsport TSP nonattainment area and the Sullivan County ozone nonattainment areas to attainment status.

(2) The Memphis and Shelby County Health Department has requested that their February 2, 1983, request for reclassification be withdrawn due to findings in a recent review of ozone data obtained at the Frayser and Shelby County Mudville Monitoring stations.

(3) The Tennessee Division of Pollution Control has requested that action on there classification of Polk County to attainment for all SO₂ standards be delayed due to exceedances found in SO₂ ambient air quality on two consecutive days in October of 1983.

Action

In light of all information received and considering all comments the following

actions are being taken. EPA is not redesignating: Shelby, Davidson, Rutherford, Sumner, Williamson, and Wilson Counties from nonattainment to attainment for ozone; Fayette and Tipton Counties, from unclassified to attainment for ozone; Bradley County, from nonattainment to unclassified for ozone; and a portion of LaFollete, from primary and secondary nonattainment for TSP to secondary nonattainment, all for reasons already discussed.

As proposed, the following areas are being redesignated from TSP nonattainment, primary and secondary, to secondary nonattainment only: portions of Davidson and Hamilton Counties; and the following are being redesignated from TSP nonattainment, primary and secondary, to attainment for all TSP standards: portions of Campbell, Sullivan and Shelby Counties. In considering the redesignation of portions of Hamilton County, it was determined that the current attainment status of the area is not a result of emission reductions brought about by economic downturn in the area.

EPA is not taking final action on the proposed redesignations of portions of Benton and Humphreys Counties from SO₂ nonattainment, primary and secondary, to secondary nonattainment only. These areas are affected by stacks subject to Section 123 of the Clean Air Act and EPA's stack height regulations. (See 47 FR 5864 (Feb. 8, 1982), codified at 40 CFR 51.1, 51.12 and 51.18 (1983).) On October 13, 1983 the United States Court of Appeals for the District of Columbia Circuit overturned portions of EPA's stack height regulations. *Sierra Club v. EPA*, 719 F.2d 436. The decision has been appealed to the United States Supreme Court by a group of affected industries. Until the judicial process is completed and the stack height regulations are either upheld by the Court or revised, EPA intends to stay action on redesignations from nonattainment to attainment for areas affected by stacks subject to Section 123 requirements.

EPA is delaying a decision on the reclassification of Polk County from SO₂ nonattainment, primary and secondary, to attainment for all SO₂ standards in light of the request by the Tennessee Division of Air Pollution Control. EPA has agreed to delay action until an investigation can be completed by Tennessee and a final determination made.

EPA is also delaying action on the redesignation of the Nashville area (Davidson, Rutherford, Sumner,

Williamson and Wilson Counties) from nonattainment to attainment for ozone. Reconsideration of this requested redesignation will be made after the 1984 ozone data has been analyzed.

As proposed, the following areas are being redesignated from unclassifiable for ozone to attainment: Grainger County, Jefferson County, and the unclassified areas in AQCR's 007 (Tennessee portion), 207, 208, and 209 (except Fayette and Tipton Counties). Also, the following areas are being redesignated from ozone nonattainment to attainment: Knox County, Maury County, and Sullivan County, on the basis of four quarters of data plus a demonstration of emission reduction.

The reader should note that none of the Tennessee counties today redesignated from unclassifiable to attainment for ozone will be listed in the attainment status tables of Subpart C, 40 CFR Part 81; this is because section 107 of the Clean Air Act does not provide for such a distinction.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 20, 1984. 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 Order 12291.

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

List of Subjects in 40 CFR Part 52

Air pollution control, intergovernmental relations, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons.

(Sections 107 and 110 of the Clean Air Act (42 U.S.C. 7407 and 7410))

Dated: June 15, 1984.

William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

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

Subpart RR—Tennessee

1. In § 52.2220, paragraph (c) is amended by adding subparagraph (58) as follows:

§ 52.2220 Identification of plan.

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

(58) Materials related to attainment status designations of various areas, submitted on January 19, 20, and 21, February 9, March 4, 14, and 22, April 6, and June 1, 1983, by the Tennessee Department for Health and Environment.

PART 81—[AMENDED]

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

Subpart C—Section 107 Attainment Status Designations

2. In § 81.343, the Tennessee-TSP table is revised to read as follows:

§ 81.343 Tennessee.

TENNESSEE—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Campbell County within downtown LaFollette.	X	X		
Those portion of Davidson County within a section of downtown Nashville and in West Nashville.		X		
That portion of Hamilton County within approximately the city limits of Chattanooga.		X		
That portion of Knox County within a section of downtown Knoxville.			X	
That portion of Maury County within the northern section of Columbia.			X	
That portion of Roane County within a downtown section of Rockwood.			X	
Rest of State				X

4. In § 81.343, the Tennessee-O₃ table is amended by removing the entries for Knox County, Maury County, and Sullivan County.

[FR Doc. 84-16538 Filed 6-20-84; 8:45 am]

BILLING CODE 6560-50-M