Final Regulations

In consideration of the foregoing, the Coast Guard is amending part 117 of Title 33, Code of Federal Regulations to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.833 is revised to read as follows:

§117.833 Pasquotank River.

The draw of the Albemarle & Chesapeake railroad bridge, mile 47.7, at Elizabeth City, North Carolina, shall be maintained in the open position; the draw may close only for the crossing of trains and maintenance of the bridge. When the draw is closed, a bridgetender shall be present to reopen the draw after the train has cleared the bridge.

Dated: July 12, 1995.

N.V. Scurria, Jr.,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District Acting. [FR Doc. 95–19346 Filed 8–4–95; 8:45 am]

[1 k Doc. 35–13540 1 hed 6–4–35, 6.45 al.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 93

[FRL-5273-8]

Transportation Conformity Rule Amendments: Transition to the Control Strategy Period

AGENCY: Environmental Protection

Agency (EPA).

ACTION: Final rule.

SUMMARY: This action permanently aligns the timing of certain consequences of state air quality planning failures under EPA's transportation conformity rule with the imposition of Clean Air Act highway sanctions. For ozone nonattainment areas with an incomplete 15% emissions-reduction state implementation plan with a protective finding; incomplete ozone attainment/ 3% rate-of-progress plan; or finding of failure to submit an ozone attainment/ 3% rate-of-progress plan; and areas whose control strategy implementation plan for ozone, carbon monoxide, particulate matter, or nitrogen dioxide is disapproved with a protective finding,

the conformity status of the transportation plan and program will not lapse as a result of such failure until highway sanctions for such failure are effective under other Clean Air Act sections.

This action makes permanent the interim final rule issued on February 8, 1995 (60 FR 7449), which was effective for only six months. The lapse in conformity status which this action delays for some areas would otherwise prevent approval of new highway and transit projects.

EFFECTIVE DATE: This final rule is effective August 8, 1995.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–95–02. The docket is located in room M–1500 Waterside Mall (ground floor) at the Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460. The docket may be inspected from 8 a.m. to 4 p.m., Monday through Friday, including all non-government holidays.

FOR FURTHER INFORMATION CONTACT: Kathryn Sargeant, Emission Control Strategies Branch, Emission Planning and Strategies Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. (313) 668–4441.

SUPPLEMENTARY INFORMATION:

I. Background

On February 8, 1995, EPA issued an interim final rule entitled,

"Transportation Conformity Rule Amendments: Transition to the Control Strategy Period," which was effective from February 8, 1995, until August 8, 1995 (60 FR 7449). Because the interim final rule took effect without prior notice and comment, EPA limited its effectiveness to a six-month period, during which full notice and comment was to occur.

EPA also issued on February 8, 1995, a proposed rule to apply the provisions of the interim final rule permanently (60 FR 7508). The public comment period on the proposed rule lasted until March 10, 1995, and a public hearing was held on February 22, 1995.

The February 8, 1995, interim final rule delayed the conformity lapse imposed as a result of the following: an incomplete 15% rate-of-progress SIP with a "protective finding" (described below); a failure to submit or submission of an incomplete ozone attainment/3% rate-of-progress SIP; and a disapproval of any control strategy SIP (i.e., 15% rate-of-progress SIP, reasonable further progress SIP, or attainment demonstration) with a protective finding.

The interim final rule did not affect the timing of the conformity lapse which results from failure to determine conformity by the deadlines established in 40 CFR 51.400 (93.104) and 51.448(a) (93.128(a)), including deadlines to redetermine conformity with respect to submitted SIPs, following promulgation of the November 1993 rule, and following control strategy SIP approvals.

When the conformity status of the transportation plan and transportation improvement program (TIP) lapses, no new project-level conformity determinations may be made, and the only federal highway and transit projects which may proceed are exempt or grandfathered projects. Non-federal highway or transit projects may be adopted or approved by recipients of funds designated under title 23 U.S.C. or the Federal Transit Act only if they are not regionally significant.

EPA is delaying the conformity lapse resulting from the specific SIP deficiencies listed above because EPA has recognized that in practice, the twelve-month time period which the November 24, 1993, transportation conformity rule allowed for areas to correct those SIP deficiencies is too short to be reasonable for purposes of determining when transportation plans and TIPs should lapse following SIP

development failures.

Today's final rule amends the transportation conformity rule, "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act" (58 FR 62188, November 24, 1993). Required under section 176(c) of the Clean Air Act, as amended in 1990, the transportation conformity rule established the criteria and procedures by which the Federal Highway Administration, the Federal Transit Administration, and metropolitan planning organizations (MPOs) determine the conformity of federally funded or approved highway and transit plans, programs, and projects to state implementation plans (SIPs). According to the Clean Air Act, federally supported activities must conform to the implementation plan's purpose of attaining and maintaining the national ambient air quality standards.

II. Description of Final Rule

This final rule makes no substantive changes from the proposed rule. This final rule permanently applies the provisions of the February 8, 1995, interim final rule by eliminating the sixmonth limit to the interim final rule's