

Warren Generating Station as well as the nearby United Refinery facility, the other major source of SO<sub>2</sub> in the region.

**Meteorological Data**—The modeling analysis used one year of on-site and local meteorological data. Two towers, an 150-meter tower and a 10-meter tower, collected wind directions and wind speeds, stability information, and temperature. The 150-meter tower is located on-site at the Penelec facility. The 10-meter tower is located in nearby, elevated terrain and was used primarily for determination of the stability class and as a substitute data site. Data was recovered at a greater than 90 percent rate and appropriate data substitution procedures were employed.

**Background Concentration**—The study uses monitored air quality data for determining that portion of the background concentrations attributable to sources other than those nearby that are to be explicitly modeled. Seven SO<sub>2</sub> monitoring sites in and around the nonattainment area were available for evaluation. The Guideline procedures for determining background concentrations for multiple-source areas were used to select the most representative monitor.

**Source Inputs**—The Warren Generating Station was modeled using an emission rate of 1.0 pounds per million BTU, the revised allowable limit established in the Consent Order and Agreement. Each of the other input parameters such as stack height, stack temperature, etc. were included in the demonstration. United Refining Company's facility was modeled using its current allowable operating conditions. Similar input parameters were provided for the United Refining facility.

**Modeling Results**—The results of the modeling analysis indicate that no exceedances of the NAAQS for SO<sub>2</sub> are expected in the Conewango Township nonattainment area when the Warren Generating Station is operating at an emission rate of 1.0 lb/mmBTU. The predicted high-second-high concentrations for the 3-hour (1,300 µg/m<sup>3</sup>), 24-hour [365 µg/m<sup>3</sup>], and annual arithmetic mean (80 µg/m<sup>3</sup>) ambient air quality standards are 1,038 µg/m<sup>3</sup>, 184 µg/m<sup>3</sup>, and 23.2 µg/m<sup>3</sup> respectively. This demonstrates that the proposed SIP revision will be protective of the NAAQS in the Conewango Township nonattainment area for SO<sub>2</sub> for each NAAQS averaging period.

EPA's review of this material indicates that Pennsylvania's SIP revision provides for the attainment of the NAAQS for SO<sub>2</sub> in Conewango Township, Warren County and satisfies the requirements of part D of the Clean

Air Act. The revision is supported by a modeling analysis which clearly demonstrates the adequacy of emission limits in providing for the attainment and maintenance of NAAQS for SO<sub>2</sub> in and around the nonattainment area. The Consent Order and Agreement between Penelec and Pennsylvania at the center of the SIP revision establishes enforceable SO<sub>2</sub> emission limits on the Warren Generating Station. The submittal clearly fulfills the procedural and substantive requirements of 40 CFR part 51. Therefore, EPA is approving the Pennsylvania SIP revision for the Conewango Township, Warren County SO<sub>2</sub> nonattainment area, which was submitted on December 9, 1993.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 17, 1995 unless, by March 17, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 17, 1995.

#### Final Action

EPA is approving the Pennsylvania SIP revision for the Conewango Township, Warren County SO<sub>2</sub> nonattainment area.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant

impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

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 April 17, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve a revision to Pennsylvania's SIP for SO<sub>2</sub> in Conewango Township, Warren County may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: November 18, 1994.

**Stanley L. Laskowski,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows: