employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service on October 1, 1979 and is honorably retired from such service, or

(3) Was an employee of the Panama Canal Company or Canal Zone Government on April 1, 1979 who has performed faithful service for five years or more as such an employee and whose personal safety, or the personal safety of whose spouse or children, as a direct result of the Panama Canal Treaty of 1977, is reasonably placed in danger because of the special nature of any of that employment, or

(4) Is the spouse or child of any alien who establishes to the satisfaction of the consular officer that he qualifies as a special immigrant under paragraphs (a)(1), (2), or (3) of this section and is accompanying that alien to the United States.

(b) An alien who qualifies as a special immigrant under paragraph (a) of this section shall not be ineligible to receive a visa (1) under the provisions of section 212(a)(7) of the Act, or (2) under the provisions of section 212(a)(15) of the Act if he applies for a visa and for admission to the United States prior to April 1, 1982.

3. In § 42.60 in paragraph (a) the word "Authorized" at the beginning of that paragraph is changed to read "Centralized". In addition, paragraph (d) is added to read:

§ 42.60 Control of numerical limitations by the Department.

* * * * *

(d) *Special Immigrants—Panama.* Centralized control of the numerical limitations on immigration specified in section 3201(c) of the Panama Canal Act of 1979 is established in the Department. In order to effectuate this control, the Department shall limit the number of special immigrant visas that may be issued and the number of adjustments of status that may be granted to aliens qualifying for visas under subsections (E), (F), and (G) of section 101(a)(27) of the Act to a number not to exceed a total of 5,000 in any fiscal year starting with the fiscal year beginning on October 1, 1979. If an immigrant having an immigrant visa issued pursuant to sections 101(a)(27) (E), (F) or (G) of the Act is excluded from the United States and deported, or does not apply for admission to the United States before the expiration of the validity of his visa, or if such a visa is revoked pursuant to § 42.134, the number shall be returned to the Department for reallocation.

4. Section 42.62(b)(2) is amended by deleting the word "or" at the end of subparagraph (i) and changing the period to a comma and adding the word "or" at the end of subparagraph (ii). In addition subparagraph (iii) is added to read:

§ 42.62 Priority date of individual applicants.

* * * * *

(b) * * *

(2) * * *

(iii) The applicant is entitled to classification as a special immigrant under paragraph (E), (F) or (G) of section 101(a)(27) of the Act.

* * * * *

5. Section 42.63 is amended, by deleting the word "and" at the end of paragraph (a), changing the period to a comma and inserting the word "and" at the end of paragraph (b) and adding a paragraph (c) to read:

§ 42.63 Order of consideration.

* * * * *

(c) In the chronological order of the priority dates of all applicants within the special immigrant classifications specified in paragraph (E), (F) or (G) of section 101(a)(27) of the Act.

* * * * *

Section 42.64(a) is revised to read:

§ 42.64 Reports of numbers and priority dates of applications on record.

(a) Consular officers shall report periodically, as the Department may direct, the number and priority dates of all applicants subject to the numerical limitations prescribed in sections 201, 202 and 203 of the Act and in section 3201(c) of the Panama Canal Act of 1979 and whose immigrant visa applications have been recorded in accordance with § 42.61(b).

Dated: November 28, 1979.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 79-38152 Filed 12-12-79; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

Highway Bridge Replacement and Rehabilitation Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: The Federal Highway Administration is issuing this document in order to provide further guidance and clarification of procedures for administerting the highway bridge replacement and rehabilitation program.

EFFECTIVE DATE: December 13, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Gordon, Bridge Division, 202-472-7697; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1978, the President signed into law the Surface Transportation Assistance Act of 1978 (the Act), Pub. L. 95-599, 92 Stat. 2689. Section 124 of the Act amended 23 U.S.C. 144 which necessitated a revision to existing regulations implementing the bridge replacement program. The revisions provide a bridge replacement and rehabilitation program both on and off the Federal-aid systems. Inventories and priorities for replacement and rehabilitation of both on and off-system bridges shall be made by the Secretary of Transportation in consultation with the States. The Secretary shall determine the eligibility of a bridge for funds under this program.

The Federal share payable for any project under this program is now 80 percent; formerly, it was 75 percent.

In consideration of the foregoing, the Federal Highway Administration (FHWA) published the revised regulations as a final rule in the **Federal Register** on March 15, 1979, (44 FR 15665), and invited public comments for a 90-day period.

Numerous comments were received from States, counties, local government groups and Federal agencies. These comments were reviewed and categorized.

Summary of Major Changes

In response to comments received, the regulations published on March 15, 1979, remain largely unchanged. The following changes have been made to clarify the existing regulations:

1. Section 650.407(a) has been revised to indicate Federal and local government agencies are to submit bridge inventory and inspection data through the State agency.

2. Section 650.411(c) has been revised to clearly indicate maintenance responsibilities for both on and off-system bridge projects funded under the Highway Bridge Replacement and Rehabilitation Program (HBRRP).

3. Section 650.411(c)(2) has been revised to provide for existing bridges to remain in place under certain situations.

Comments and FHWA'S Response

FHWA received 72 comments from 29 organizations prior to the close of the comment period on June 13, 1979. Comments were received from 18 counties, four county organizations, four State highway administrations, one Federal agency, one railroad agency and one highway group. These comments were grouped for similarity and are discussed by HBRRP regulations section.

Section 650.403—Definition of terms

1. Under the current bridge length definition and under HBRRP procedures, most hydraulically hazardous low-water crossings are not currently eligible.

Discussion: Low-water crossings which are greater than 20 feet long and are in good condition represent an unusual situation and are not currently eligible for the program. However, to place proper emphasis on the hazardous condition which could exist during flooding for some of these crossings, the Federal Highway Administration will review individual crossings greater than 20 feet in length to determine the acceptability of the project for HBRRP funds. As is the case with all structures 20 feet or less long, low water crossings 20 feet or less in length will continue to be ineligible under the program.

2. Section 650.403 should include a separate definition of historic bridges such that all historic bridges even those under 20 feet in length are eligible.

Discussion: The prime purpose of the HBRRP is to replace or rehabilitate deficient bridges, not to revitalize those bridges considered historic. Should an otherwise eligible bridge also have historic significance, it would qualify under the HBRRP and be eligible for rehabilitation or replacement. Under the current bridge definition, there are approximately 105,500 deficient highway bridges nationwide. As the off-system bridge inventory progresses, bridges are being added to the National Bridge Inventory and the number of deficient bridges is increasing. Bridges over 20 feet as now defined are of primary concern under the HBRRP. It is felt that the cost of replacing or rehabilitating minor structures less than 20 feet long, including those which are historic, would be prohibitive in relation to available funds. It has, therefore, been determined that the current 20-feet criteria of the definition will be retained for all bridges.

Section 650.405—Eligible projects

3. The regulations should indicate that replacement bridge design costs and the initial bridge inventory inspection are eligible for HBRRP funding.

The term "eligible project" encompasses all aspects of the undertaking to replace or rehabilitate a bridge except for those items specifically noted as ineligible under § 650.405(c). Thus, the replacement bridge design and initial inventory inspection are considered part of the project and need not be specifically mentioned in the regulations.

4. The regulations should provide more autonomy to FHWA division offices in granting exceptions and waivers in the administration of the HBRRP.

Discussion: FHWA Field Divisions administer the program within HBRRP regulations and policies. HBRRP regulations include only those requirements contained or envisioned in the Act, thus providing FHWA offices autonomy for administering the program within confines dictated by law and other policies necessary to administer such a large program. Also, FHWA Division Administrators have the authority to grant HBRRP design exceptions under certain conditions. Thus, additional flexibility to administer the HBRRP at the FHWA Division level is not warranted.

5. The requirement that the replacement or rehabilitation of a structure must meet current standards is too restrictive and flexibility and waiver to the standards should be permitted particularly in the case of historic bridges.

Discussion: The FHWA is of the opinion that the design standards for replacement or rehabilitation projects as contained in 23 CFR Part 625 are appropriate in the majority of cases. However, FHWA guidelines and 23 CFR Part 625 do provide for replacement or rehabilitation to less than minimum criteria under certain conditions on a project-by-project basis for both on and off-system bridges including those which are historic. Thus, the mechanism for granting exceptions to the minimum standards presently exists for all bridges and further elaboration within the HBRRP regulations is not warranted.

6. In a situation where a bridge is no longer needed, the regulations should indicate the bridge may be replaced with a road fill if its cost is less than the bridge replacement cost.

Discussion: This is a unique situation which occurs infrequently. As with any unusual situation, the FHWA will consider eligibility on a project-by-project basis. The FHWA does not feel elaboration of this unique situation in the HBRRP regulations is warranted.

7. The regulations should clearly define what is meant by "a nominal amount of approach work".

Discussion: Each bridge project and its associated roadway work is different and thus an exact definition of approach roadway work as to eligibility is not feasible. The regulations state eligible approach work is that "sufficient to connect the new facility to the existing roadway or to return the gradeline to an attainable touchdown point in accordance with good design practice." The FHWA feels these guidelines are sufficient and provide necessary flexibility in judging each project at the field level.

8. The HBRRP regulations should specifically promote the rehabilitation rather than replacement of historic bridges and ensure that such rehabilitation does not adversely afect historic bridges.

Discussion: Should an HBRRP eligible bridge also be historic it would qualify as a rehabilitation or replacement project. Under FHWA's extensive environmental and historic assessment procedures, that effect on the final design disposition of the project will be evaluated and determined. It is felt these existing environmental and historic procedures are adequate and further emphasis in the HBRRP regulations is not warranted.

9. The terms "structurally deficient" and "functionally obsolete" should be defined in the regulations and the definition should include bridge load capacity.

Discussion: The actual criteria for a bridge's eligibility is outlined in § 650.409 and is based on the AASHTO's sufficiency rating formula and FHWA evaluation criteria. As part of its evaluation the FHWA defines a structurally deficient or functionally obsolete bridge as a matter of policy and as the definitions may change with changes in program emphasis, it is not recommended that they be contained in the regulations.

The definition of these terms cannot be based on load rating alone but must also consider the significance of the highway system of which the bridge is a part. As the overall structural condition appraisal, which considers bridge load carrying capacity and type of highway system, is part of the definitions, adoption of this modification is not recommended.

10. In the case of bridges eligible for rehabilitation only, it is sometimes very difficult to determine the practicality of rehabilitation. The economic feasibility of rehabilitation should be weighed and replacement should be permitted where justified.

Discussion: May factors, including some which cannot be evaluated by the sufficiency rating formula, must be considered in the decision of whether to rehabilitate or replace structures. To provide for those unusual conditions where it is virtually impossible to correct deficiencies by rehabilitation, FHWA should review submittals, including thorough engineering and economic studies, for approval on a project-by-project basis.

Section 650.407—Application for Bridge Replacement or Rehabilitation

11. Section 650.407(a) should indicate that local governments should submit the bridge data through the State agency.

Discussion: The FHWA concurs with this recommendation and the appropriate words have been added to § 650.407(a) to indicate that all government agencies including local and Federal Government should supply the bridge data to the State agency.

12. The HBRRP regulations should indicate that bridge program funds may be utilized on selected eligible bridges prior to a locality's completing and submitting all its bridge inspections.

Discussion: Section 650.407(b) indicates bridge inventory data may be submitted as available and once submitted an eligible bridge will automatically appear on the State selection list. In addition, the "New Federal Funds for Off-System Bridges"[1] brochure which was sent to 4200 local jurisdictions, clearly indicates that a locality need not complete all bridge inspections prior to submitting candidates. The FHWA does not feel this modification in necessary.

13. Additional emphasis should be added to § 650.407 of the regulations to ensure that all public highway bridges over railroads are inspected and inventoried.

Discussion: The Act and the National Bridge Inspection Standards published on May 1, 1979 at 44 FR 25434 clearly required the inspection and inventory by December 31, 1980 of all public highway bridges, including those over railroads. The FHWA does not feel that further emphasis on this point is necessary in the HBRRP regulations.

14. Section 650.407(d) of the regulations should encourage State application for an historic bridge inventory and require coordination of such inventory with the State Historic Preservation Officer (SHPO).

Discussion: It is not within the realm of the bridge program to require such an historic inventory and it is felt the addition of § 650.407(d) to the regulations encourages States to pursue such an inventory. The Advisory Council on Historic Preservation's Protection of Historic and Cultural Properties regulations require coordination with the SHPO in the conduct of such historic bridge inventory. The State may, of course, inventory its historic bridges as part of the HBRRP if it so desires.

Section 650.409—Evaluation of Bridge inventory

15. Specific comments recommending minor modifications of the AASHTO sufficiency rating formula and *AASHTO Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Coding Guide)* were received.

Discussion: The sufficiency rating formula and *Coding Guide* were prepared by the AASHTO and FHWA and adopted by FHWA after much study. The formula is a composite rating based on *Coding Guide* reported data and as such gives a reliable and uniform indication on a State and national basis of relative structural condition and serviceability. The FHWA does not propose amending the formula or *Coding Guide* at this time.

16. Other factors besides the bridge sufficiency rating formula should be utilized to compare structures.

Discussion: The FHWA evaluates bridges prioritized by sufficiency rating for placement on each State's eligible bridge list. In the final selection process, the States select projects from the eligible bridge list based on priorities established at the State and local levels. Thus, factors other than bridge sufficiency ratings are used in the evaluation and selection process.

17. The final project selection and distribution of HBRRP on- and off-system bridge funds should be based on need and equitable fund distribution and should be made in cooperation and consultation with local officials.

Discussion: The FHWA selection list for bridges on and off the Federal-aid system consists of structurally deficient and functionally obsolete bridges prioritized by sufficiency rating. Thus, eligible HBRRP projects are based on need. In keeping with the FHWA minimization of red tape policy, the regulation requires that the distribution of project funds be made on a "fair and equitable basis" as stated in the Act. Having overall State transportation planning responsibility, State highway agencies must be responsible for selection of highway bridge projects from various Federal funding categories. The FHWA encourages cooperation between the State and its localities. However, it is the responsibility of the State and local jurisidictions to work within channels of authority and communication at the State level of government to select projects and determine fund distribution.

18. In determining eligibility for the FHWA candidate selection list only a structure's sufficiency rating should be considered.

Discussion: In reviewing the past history, accomplishments and legislative intent of the program prior to implementing the new legislation, FHWA concluded that the best approach to the management of the program would be to relate accomplishments and procedures to the categories of deficient bridges. This determination was based primarily on two items:

1. Deficient bridges provide a direct measurement of progress and of needs in the program, without which the program would be virtually unending. The sufficiency rating formula is merely used to establish priorities in any category. For example, it is possible for a deficient bridge to be rehabilitated to provide a tolerable level of service for some reasonable period of time but yet the sufficiency rating reflecting the work performed would still be less than 80 and continually remain on the eligible selection list.

2. The deficient categories are related to specific definitions in the *AASHTO Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Coding Guide)*. These definitions provide a distinct and recognizable division for the coding of deficient bridges.

We continue to believe that the selection criteria deemed most appropriate are the State's determination and coding of a bridge as either structurally deficient or functionally obsolete. The sufficiency rating will be used to establish priorities in any category.

19. In the HBRRP bridge selection process, FHWA policy permits replacement of bridges with a sufficiency rating of less than 50 and rehabilitation of bridges with a sufficiency rating of 80 or less. These criteria should be part of the regulations.

Discussion: The HBRRP regulations discuss sufficiency ratings in § 650.409(a). All State highway agencies have been notified of the current FHWA sufficiency rating eligibility criteria developed pursuant to that section. In addition, the criteria will be incorporated in a forthcoming revision of the Federal-Aid Highway Program

[1] This brochure is available for inspection and copying as prescribed in 49 CFR Part 7 Appendix D.

Manual (FHPM 6-7-4-1). Copies of this manual are provided directly to all State highway agencies and are available for inspection and copying pursuant to 49 CFR Part 7, Appendix D.

20. In the selection process, preference should be given to historic bridges and bridges which cross AMTRAK's right-of-way over other competing structures.

Discussion: As intended by Congress, the Act considers all eligible bridges equally. As priority selection consideration of historic bridges or bridges crossing AMTRAK's right-of-way would be at the expense of other eligible deficient bridges, FHWA has determined that modification of the regulations is not warranted.

Section 650.411—Procedures for Bridge Replacement and Rehabilitation projects

21. The regulations should be revised to specifically indicate maintenance requirements for off-system bridges replaced under the HBRRP.

Discussion: The FHWA agrees that HBRRP regulations do not clearly define maintenance requirements and responsibilities for off-system bridges. Consequently, § 650.411(c) has been changed to clarify this point.

22. Regulations should indicate that when a deficient bridge is replaced, the existing bridge may be left in place to service recreation vehicles such as bicycles, mopeds and snowmobiles.

Discussion: The FHWA feels that whenever a deficient bridge is replaced or its deficiency alleviated, the existing bridge under certain conditions should be allowed to remain in place if safe and practical for any purpose. Section 650.411(c)(2) has been revised to so indicate.

Section 650.413—Funding

23. The amount of funds designated for off-system bridges should be determined by a State's off-system bridge needs.

Discussion: The 15 to 35 percent range as contained in the Act was intended by Congress to provide flexibility for funding off-system bridges considering each State's different requirements. The off-system National Bridge Inventory is scheduled for completion by December 31, 1980, and thus the exact off-system bridge needs cannot be determined at this time. When bridge data is available these needs could be considered in HBRRP fund distribution.

24. The FHWA should review and verify that not less than 15 percent of the funds are utilized on off-system bridges within a State and that local jurisdiction verification be required prior to waiving the minimum 15 percent limit for off-system deficient bridges.

Discussion: The FHWA is constantly aware of the status of bridge program funds, through project recordkeeping procedures, which do not permit a State to utilize less than 15 percent of the funds on off-system deficient bridges. Should a State request a waiver of the 15 percent limit, no such waiver will be permitted without documentation after consultation with State and local officials as indicated in § 650.413(c).

25. The regulations should be more explicit in providing off-system designated funds for bridges under both State and local jurisdiction responsibility.

Discussion: As all Federal-aid programs are administered by the States with overall highway planning responsibility, HBRRP funds are designated within a State for off-system bridges in general. It is the responsibility of local jurisdictions and a State to work within channels of communications and authority to determine disbursement of off-system bridge funds.

26. Should a local jurisdiction receive HBRRP funds for an eligible deficient bridge, the regulations should permit replacement or rehabilitation of a substitute deficient bridge with a similar sufficiency rating if the local jurisdiction wished.

Discussion: Project approval and fund distribution is based on the need for a specific bridge. Thus, should a local jurisdiction be unable to utilize HBRRP funds for the designated bridge, the funds must be returned so they may be applied to the bridge in most need.

General:

27. Bridge program projects should be administered under the State's Secondary Road Plan and/or Certification Acceptance procedures.

Discussion: Under Federal-aid procedures, the State is responsible for administration of bridge projects funded under the HBRRP. Such projects are administered in accordance with procedures of the road system of which they are a part or under a Certification Acceptance program if applicable.

28. The regulations should have been issued as a proposed rulemaking, not as a final rule.

Discussion: As the regulations represent modifications of the existing regulations, consistent with changes in the Act, the regulations were issued as a final rule and comments were solicited.

29. To expedite the bridge program, particularly in the case of rehabilitation projects, environmental assessment, historic preservation, right-of-way, and 404 permit requirements should be relaxed or apply only to replacement projects.

Discussion: By law, such requirements apply to all projects utilizing Federal-aid funds and cannot be relaxed or waived at the discretion of the FHWA.

30. Regulations should indicate that on and off-system bridges should be inspected every 2 years.

Discussion: This requirement is contained in the National Bridge Inspection Standards and the FHWA does not feel it is necessary to repeat this requirement in the HBRRP regulations.

Conclusions:

The FHWA made a concerted effort to incorporate all valid comments in these final amendments. As noted, revisions have been made to the regulations clarifying certain sections. The FHWA believes that the regulations provide a clear standard for agencies to follow in carrying out the HBRRP while being sufficiently flexible to serve deficient bridge needs at all levels of government.

In consideration of the foregoing, Subpart D of Part 650 of Title 23, Code of Federal Regulations, is amended as follows:

1. Paragraph (a) of § 650.407 is revised to read:

§ 650.407 Application for bridge replacement or rehabilitation.

(a) Agencies participate in the bridge program by conducting bridge inspections and submitting Structure Inventory and Appraisal (SI&A) sheet inspection data. Federal and local governments supply SI&A sheet data to the State agency for review and processing. The State is responsible for submitting the six computer card format or tapes containing all public road SI&A sheet bridge information through the Division Administrator of the Federal Highway Administration (FHWA) for processing. These requirements are prescribed in 23 CFR 650.309 and 650.311, the National Bridge Inspection Standards.

* * * * *

2. Paragraph (c) of § 650.411 is revised to read:

§ 650.411 Procedures for bridge replacement and rehabilitation projects. [Amended]

* * * * *

(c)(1) Each approved project will be designed, constructed, and inspected for acceptance in the same manner as other projects on the system on which the project is located. It shall be the responsibility of the State agency to properly maintain, or cause to be properly maintained, any project constructed under this bridge program. The State highway agency shall enter into a formal agreement for maintenance with appropriate local government officials in cases where an eligible project is located within and is under the legal authority of such a local government.

(2) Whenever a deficient bridge is replaced or its deficiency alleviated by a new bridge under the bridge program, the deficient bridge shall either be dismantled or demolished or its use limited to the type and volume of traffic the structure can safely service over its remaining life. For example, if the only deficiency of the existing structure is inadequate roadway width and the combination of the new and existing structure can be made to meet current standards for the volume of traffic the facility will carry over its design life, the existing bridge may remain in place and be incorporporated into the system.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. The amendments contained herein simply clarify existing policy and procedures. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Stanley Gordon of the program office at the address specified above. In light of the opportunity provided for public comment on the final rule, and because these amendments were addressed in the comments received, it has been determined that publication of these amendments for notice and comment could not reasonably be anticipated to result in the recept of useful information. The FHWA has also determined that it is in the public interest to issue these amendments without a 30-day delay in effective date in order to provide immediate clarification of current policy and procedures.

(23 U.S.C. 144, 315; 49 CFR 1.48(b))

Issued on: December 4, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 79-37940 Filed 12-12-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Statement of Procedural Rules; Tax Counseling for the Elderly

AGENCY: Internal Revenue Service, Treasury Department.

ACTION: Final rules.

SUMMARY: This document provides rules under which the Internal Revenue Service will enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to the elderly (individuals age 60 or over) under the Revenue Act of 1978.

DATE: These rules take effect December 13, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Smith of the Taxpayer Service Division (TX:T:I), Internal Revenue Service, Room 7213, 1111 Constitution Avenue, N.W., Washington, D.C. (202-566-4904).

SUPPLEMENTARY INFORMATION:

Background

Section 163 of the Revenue Act of 1978, Public Law 95-600, November 6, 1978, (92 Stat. 2810) provides that the Internal Revenue Service may enter into agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative Agreements

Programs will be administered by non-profit agencies and organizations under cooperative agreements with the Internal Revenue Service in compliance with the Federal Grant and Cooperative Agreement Act of 1977, Public Law 95-224, February 3, 1978 (92 Stat. 3, 41 U.S.C. 501-509). Cooperative agreements will provide: (1) for the implementation of the program(s) by geographical area, (2) the functions to be performed by the Service and program sponsor, (3) the maximum amount of money available for reimbursement of expenses, and (4) other information.

Competition

Normally cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Competition will not be used where time makes competition impracticable. Agencies and organizations will be eligible to enter into a cooperative agreement if they are non-profit and have experience in coordinating volunteer programs. Eligible applicants will be selected to enter into cooperative agreements on the basis of information provided in their application and in accordance with criteria set forth in the application instructions supplied by the Service.

Program Administration

Under a cooperative agreement, the agency or organization sponsoring a Tax Counseling for the Elderly program will normally be responsible for administration of the program, including the recruitment of volunteers.

The Service will normally provide training and technical support. Program operations will be primarily carried on by the volunteers. Sponsoring agencies and organizations will normally receive reimbursements for administrative expenses of the program and volunteers will normally receive reimbursements for expenses incurred in training and in providing tax return assistance. Volunteers will be provided training and will be required to pass tests designed to measure their understanding of Federal tax subjects on which they will provide assistance.

DRAFTING INFORMATION: The principal authors of these final rules are Judy M. Smith of the Taxpayer Service Division, Internal Revenue Service, James W. Corbitt, Jr. of the General Legal Services Division, Office of Chief Counsel, Internal Revenue Service, and Charles C. Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, other personnel in the Taxpayer Service Division, other divisions in the Internal Revenue Service and the Office of Chief Counsel participated in developing these final rules, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS: The following additions are made to the Statement of Procedural Rules (26 C.F.R. Part 601):

Paragraph 1. The following new provision is added at the end of the table of contents at the head of Part 601:

Subpart H—Tax Counseling for the Elderly

Sec.

Par. 2. New subpart H is added to read as follows:

Subpart H—Tax Counseling for the Elderly

§ 601.801 Purpose and statutory authority.

(a) This Subpart H contains the rules for implementation of the Tax Counseling for the Elderly assistance program under section 163 of the Revenue Act of 1978, Pub. L. 95–600, November 6, 1978 (92 Stat. 2810). Section 163 authorizes the Secretary of the Treasury, through the Internal Revenue Service, to enter into agreements with private or public non-profit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals, age 60 and over, in the preparation of their Federal income tax returns.

(b) Section 163 provides that the Secretary may provide:

(1) Preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(2) Publicity for making elderly persons aware of the availability of volunteer taxpayer return preparation assistance programs under this section; and

(3) Technical materials and publications to be used by such volunteers.

(c) In carrying out responsibilities under section 163, the Secretary, through the Internal Revenue Service is also authorized:

(1) To provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly in the preparation of Federal income tax returns;

(2) To provide for the training of such volunteers, and to assist in such training, to ensure that such volunteers are qualified to provide tax counseling assistance to elderly individuals in the preparation of Federal income tax returns;

(3) To provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance in the preparation of Federal income tax returns under this section, and such other support and assistance determined to be appropriate in carrying out the provisions of the section;

(4) To provide for the use of services, personnel, and facilities of Federal executive agencies and State and local public agencies with their consent, with or without reimbursement; and

(5) To prescribe rules and regulations necessary to carry out the provisions of the section.

(d) With regard to the employment status of volunteers, section 163 also provides that service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be subject to the provisions of law relating to Federal employment, except that the provisions relating to the illegal disclosure of income or other information punishable under section 1905 of Title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

§ 601.802 Cooperative agreements.

(a) *General.* Tax Counseling for the Elderly programs will be administered by sponsor organizations under cooperative agreements with the Internal Revenue Service. Use of cooperative agreements is in accordance with the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, February 3, 1978 (92 Stat. 3, 41 U.S.C. 501–509). Cooperative agreements will be legally binding agreements in document form.

(b) *Nature and contents of cooperative agreements.* Each cooperative agreement will provide for implementation of the program in specified geographic areas. Cooperative agreements will set forth:

(1) The functions and duties to be performed by the Internal Revenue Service and the functions and duties to be performed by the program sponsor,

(2) The maximum amount of the award available to the program sponsor,

(3) The services to be provided for each geographical area, and

(4) Other requirements specified in the application.

(c) *Entry into cooperative agreements.* The Commissioner of Internal Revenue, the Director, Taxpayer Service Division, or any other individual designated by the Commissioner may enter into a cooperative agreement for the Internal Revenue Service.

(d) *Competitive award of cooperative agreements.* Cooperative agreements will generally be entered into based upon competition among eligible applicants.

(1) To be eligible to enter into a cooperative agreement, an organization must be a private or public non-profit agency or organization with experience in coordinating volunteer programs. Federal, state, and local governmental agencies and organizations will not be eligible to become program sponsors.

(2) Eligible applicants will be selected to enter into cooperative agreements based on an evaluation by the Internal Revenue Service of material provided in their applications. The Service will set forth the evaluative criteria in the application instructions.

(3) Determinations as to the eligibility and selection of agencies and organizations to enter into cooperative agreements will be made solely by the Internal Revenue Service and will not be subject to appeal.

(e) *Noncompetitive award of cooperative agreements.* If appropriations to implement the Tax Counseling for the Elderly program are received at a time close to when tax return preparation assistance must be provided or when other factors exist which make the use of competition to select agencies and organizations to enter into cooperative agreements impracticable, cooperative agreements will be entered into without competition with eligible agencies and organizations selected by the Internal Revenue Service. Determination of when the use of competition is impracticable will be made solely by the Internal Revenue Service and will not be subject to appeal.

(f) *Renegotiation, suspension, termination and modification.* (1) Cooperative agreements will be subject to renegotiation (including the maximum amount of the award available to a sponsor), suspension, or termination if performance reports required by the cooperative agreement and/or other evaluations by or audits by the Internal Revenue Service or others indicate that planned performance goals or other provisions of the cooperative agreement, the regulations, or Section 163 of the Revenue Act of 1978 are not being satisfactorily met. The necessity for renegotiation, suspension, or termination, will be determined solely by the Internal Revenue Service and will not be subject to appeal.

(2) Cooperative agreements may be modified in writing by mutual agreement between the Internal Revenue Service and the program sponsor at any time. Modifications will be based upon factors such as an inability to utilize all funds available under a cooperative agreement, the availability of additional funds and an ability to effectively utilize additional funds, and interference of some provisions with the efficient operation of the program.

(g) *Negotiation.* If the proposed program of an eligible applicant does not warrant award of an agreement, the Internal Revenue Service may negotiate with the applicant to bring the application up to a standard that will be adequate for award. If more than one inadequate application has been received for the geographic area involved, negotiation to bring all such applications up to a standard will be conducted with all such applicants unless time does not permit negotiations with all.

§ 601.803 Program operations and requirements.

(a) *Objective.* The objective of the Tax Counseling for the Elderly program is to provide free assistance in the preparation of Federal income tax returns to elderly taxpayers age 60 and over, by providing training, technical and administrative support to volunteers under the direction of non-profit agencies and organizations that have cooperative agreements with the Internal Revenue Service.

(b) *Period of program operations.* Most tax return preparation assistance will be provided to elderly taxpayers during the period for filing Federal income tax returns, from January 1 to April 15 each year. However, the program activities required to ensure elderly taxpayers efficient and quality tax assistance will normally be conducted year round. Program operations will generally be divided into the following segments each year: October—recruit volunteers; November and December—set training and testing schedules for volunteers, identify assistance sites, complete publicity plans for sites; December and January—train and test volunteers, set volunteer assistance schedules; January through May—provide tax assistance, conduct publicity for sites; May and June—prepare final reports and evaluate program; July and August—prepare for next year's program.

(c) *Assistance requirements.* All tax return preparation assistance provided under Tax Counseling for the Elderly programs must be provided free of charge to taxpayers and must be provided only to elderly individuals. An elderly individual is an individual age 60 or over at the close of the individual's taxable year with respect to which tax return preparation assistance is to be provided. Where a joint return is involved, assistance may be provided where only one spouse satisfies the 60 year age requirement.

(d) *Training and testing of volunteers.* Volunteers will normally be provided training and will normally be required to pass tests designed to measure their understanding of Federal tax subjects on which they will provide tax return assistance. Volunteers who do not receive a satisfactory score will not be eligible to participate in the program.

(e) *Confidentiality of tax information.* Program sponsors must obtain written assurance from all volunteers and all other individuals involved in the program, to respect the confidentiality of income and financial information known as a result of preparation of a return or of providing tax counseling assistance in the preparation of Federal income tax returns.

§ 601.804 Reimbursements.

(a) *General.* When provided for in cooperative agreements, the Internal Revenue Service will provide amounts to program sponsors for reimbursement to volunteers for transportation, meals, and other expenses incurred in training or providing tax return assistance and to program sponsors for reimbursement of overhead expenses. Cooperative agreements will establish the items for which reimbursements will be allowed and the method of reimbursement, e.g., stipend versus actual expenses for meals, as well as developing necessary procedures, forms, and accounting and financial control systems.

(b) *Direct, reasonable, and prudent expenses.* Reimbursements will be allowed only for direct reasonable, and prudent expenses incurred as a part of a volunteer's service or as a part of the program sponsor's overhead.

(c) *Limitation.* Total reimbursements provided to a program sponsor shall not exceed the total amount specified in the cooperative agreement. The Internal Revenue Service shall not be liable for additional amounts to program sponsors, volunteers, or anyone else.

(d) *Availability of appropriated funds.* Expense reimbursements and other assistance to be provided by the Internal Revenue Service under cooperative agreements are contingent upon the availability of appropriated funds for the Tax Counseling for the Elderly program.

§ 601.805 Miscellaneous administrative provisions.

(a) *Responsibilities and relationship of Internal Revenue and program sponsor.* Substantial involvement is anticipated between the Internal Revenue Service and the program sponsors in conducting this program. Specific responsibilities and obligations of the Internal Revenue Service and the program sponsors will be set forth in each cooperative agreement.

(b) *Administrative requirements set forth in OMB and Treasury Circulars.* (1) The basic administrative requirements applicable to individual cooperative agreements are contained in Office of Management and Budget Circular No. A-110, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations (41 FR 32016). Requirements for advances to program sponsor(s) for financing operations under cooperative agreements are contained in Treasury Department Circular No. 1075, as revised, Regulations Governing Withdrawal of Cash from Treasury for Advances under Federal Grant and Other Programs. All applicable provisions of these two circulars and any existing and further supplements and revisions are incorporated into these regulations and into all cooperative agreements entered into between the Internal Revenue Service and program sponsors.

(2) Additional operating procedures and instructions may be developed by the Internal Revenue Service to direct recipient organizations in carrying out the provisions of this subpart, such as instructions for using letters of credit. Any such operating procedures or instructions will be incorporated into each cooperative agreement.

(c) *Joint funding.* Tax Counseling for the Elderly programs will not be eligible for joint funding. Accordingly, the Joint Funding Simplification Act of 1974, Pub. L. 93–510, December 5, 1974 (88 Stat. 1604, 42 U.S.C. 4251–4261) and Office of Management and Budget Circular No. A-111, Jointly Funded Assistance to State and Local Governments and Nonprofit Organizations (41 FR 32039), will not apply.

(d) *Discrimination.* No program sponsor shall discriminate against any person providing tax return assistance on the basis of age, sex, race, religion or national origin in conducting program operations. No program sponsor shall discriminate against any person in providing such assistance on the basis of sex, race, religion or national origin.

§ 601.806. Solicitation of applications.

(a) *Solicitation.* The Commissioner of Internal Revenue or the Commissioner's delegate may, at any time, solicit eligible agencies and organizations to submit applications. Generally, applications will be solicited and accepted in June and July of each year. Deadlines for submitting applications and the schedule for selecting program sponsors will be provided with application documents.

(1) Before preparing and submitting an unsolicited application, organizations are strongly encouraged to contact the Internal Revenue Service at the address provided in paragraph (b) (2) of this section.

(2) A solicitation of an application is not an assurance or commitment that the Internal Revenue Service will enter into a cooperative agreement. The Internal Revenue Service will not pay any expenses or other costs incurred by the applicant in considering, preparing or submitting an application.

(b) *Application.* (1) In the application documents, the Commissioner or the Commissioner's delegate will specify program requirements which the applicant must meet.

(2) Eligible organizations interested in participating in the Internal Revenue Service Tax Counseling for the Elderly program should request an application from the:

Program Manager, Tax Counseling for the Elderly, Taxpayer Service Division TX:T:I, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, (202) 566-4904.

These regulations involve matters relating to benefits. Accordingly, under section 553(a)(2) of Title 5 of the United States Code, the notice and public procedure prescribed by section 553(b) of the title need not be followed and the effective date limitation of section 553(d) of that title is not applicable.

(Sec. 163(b)(5) of the Revenue Act of 1978, Pub. L. 95-600, November 6, 1978 (92 Stat. 2811) and Pub. L. 89-554, September 6, 1966 (80 Stat. 379, 5 U.S.C. 301).)

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 38236 Filed 12-12-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1365-3]

Missouri: Approval of State-Issued Variances Submitted as Revisions to the Missouri State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On September 18, 1979, there was published in the **Federal Register** (44 FR 54070) a notice of proposed rulemaking setting forth two variance orders issued by the Missouri Air Conservation Commission to Pilot Knob Pelleting Company (date correction notice published on October 4, 1979, at 44 FR 57118) and Associated Electric Cooperative Thomas Hill Station Unit 2. Interested persons were given thirty days in which to submit comments on the proposed rulemaking.

No written comments have been received and the proposed variance orders are approved without change and are set forth below.

EFFECTIVE DATE: December 13, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Henry F. Rompage, Enforcement Division, EPA, Region VII, (816) 374-2576.

Signed at Washington, D.C. on November 29, 1979.

Douglas M. Costle,

Administrator.

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

In § 52.1335 the table in paragraph (a) is amended by adding the following:

§ 52.1335 Compliance schedules.

(a) * * *

Source	Location	Regulation involved [1]	Date adopted	Effective date	Final compliance date
Pilot Knob Pelleting Co	Pilot Knob, Mo	V (10 CSR 10-3.050)	Oct. 19, 1977	Immediately	Dec. 31, 1979.
Associated Electric Co., Thomas Hill Station, Unit No. 2.	Moberly, Mo	VI (10 CSR 10-3.060), VII (10 CSR10-3.080),	Apr. 19, 1978	Immediately	Dec. 31, 1982.

[1] Effective July 1, 1976, the State of Missouri revised the numbering system for all air pollution control regulations throughout the State. The State air regulations are now contained, title 10, division 10 of the code of State regulations, designated 10 CSR 10. Since the new regulatory numbering system has not been formally submitted by the State to EPA as a revision to the Missouri implementation plan, the old regulation number has been cited with a reference to the corresponding new number indicated in parentheses.

[FR Doc. 79-38141 Filed 12-12-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1375-2]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces approval of a revision to the Minnesota State Implementation Plan (SIP) pursuant to Part D of the Clean Air Act (Act). This revision is the transportation control plan for the St. Cloud urbanized area consisting of Stearns, Sherburne, and Benton Counties. The purpose of this revision is to implement measures designed to attain and maintain the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), as expeditiously as practicable but not later than December 31, 1982.

EFFECTIVE DATE: December 13, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Borcherding, SIP Coordinator, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6052.

SUPPLEMENTARY INFORMATION: On March 3, 1979 (44 FR 8962), pursuant to the requirements of section 107 of the Clean Air Act as amended in 1977, USEPA designated the City of St. Cloud as a nonattainment area with respect to meeting the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), and Sherburne County as a nonattainment area with respect to meeting the NAAQS for photochemical oxidants (ozone).

Part D of the Act added by the 1977 Amendments requires that each state revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987.

In response to these requirements, the State of Minnesota submitted on May 17, 1979, a revision to the Minnesota SIP containing the transportation plan for the St. Cloud Metropolitan Area. The transportation plan contains measures designed to attain and maintain the NAAQS for carbon monoxide. The plan demonstrates attainment of the carbon monoxide standard by December 31, 1982. Therefore, no extension of the statutory deadline is requested. The St. Cloud transportation plan does not address the ozone problem in Sherburne County because this area has a population of less than 200,000 and is considered rural for the purpose of ozone standard attainment. Transportation controls are not required in rural nonattainment counties pursuant to United States Environmental Protection Agency guidance which indicates that controls on major stationary sources and the development of transportation plant in urban areas should result in reasonable further progress toward attainment in rural areas.

The United States Environmental Protection Agency (USEPA) reviewed the proposed revision for conformance with the requirements of the Clean Air Act for transportation portions of a State Implementation Plan. With the exception of a technical procedural error whereby the State provided only 27 days notice of the public hearing on this proposed revision rather than the 30 day notice required under 40 CFR 51.4, USEPA found that the proposed revision satisfied these requirements. Therefore, on July 2, 1979, a document was published in the **Federal Register** (44 FR 38581) describing the submittal and USEPA's analysis of the submittal and proposing to approve the transportation plan for the St. Cloud Metropolitan Area as a revision to the Minnesota SIP. Interested parties were given until August 31, 1979 to submit written comments on the proposed revision and on USEPA's proposed action. Only the United States Department of Transportation, Federal Highway Administration (FHWA) submitted comments on the proposed SIP revision. FHWA supported the proposed USEPA finding that despite the technical procedural deficiency reasonable public notice was given and agreed with USEPA's assessment that the proposed revision satisfied the requirements of the Clean Air Act for the transportation plans. One commenter submitted extensive national comments which it requested be considered as part of the record for each state plan. Although many of these comments are not relevant to the Minnesota plan, USEPA has placed its response to those comments in the regional office docket and in the Public Information Reference Unit in Washington, D.C.

Having determined that the St. Cloud Metropolitan Area Transportation Plan satisfies the requirements of the Clean Air Act for the transportation portions of the State Implementation Plans, the Administrator approves this revision to the Minnesota State Implementation Plan. The St. Cloud Metropolitan Area must attain and maintain the carbon monoxide NAAQS by December 31, 1982.

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadline required by section 172(a) of the Act, the new deadlines will be substituted on the attainment date charts. The earlier attainment dates under section 110(a)(2)(A) will be referenced in a footnote to the charts. Sources subject to plan requirements and deadline established under section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new section 172 plan requirements.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.

(123 Cong. Rec, H 11958, daily ed. November 1, 1977).

To implement fully Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be revised if a state makes a case-by-case demonstration that a relaxation or revocation is necessary. Any such exemption granted by a state will be reviewed and acted upon by USEPA as a SIP revision. In addition, as discussed in the April 4, 1979 **Federal Register** (44 FR 20373), an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

Under Executive Order 12044, USEPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

Dated: December 10, 1979.

Douglas Costle,

Administrator.

Incorporation by reference provisions approved by the Director of the **Federal Register** (May 18, 1972). A copy of the incorporated material is on file in the **Federal Register** Library.

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

1. Section 52.1220(c) is amended by adding new paragraph (14) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(14) A transportation control plan for the St. Cloud Metropolitan Area was

submitted on May 17, 1979 by the Minnesota Pollution Control Agency.

2. Section 52.1223 is revised to read as follows:

§ 52.1223 Approved status.

With the exceptions set forth in this subpart, the Administrator approves Minnesota's plans for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted below.

3. Section 52.1226 is revised to read as follows:

§ 52.1226 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Minnesota's plan.

Air quality control region and nonattainment area	TSP		Pollutant SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
Central Minnesota Interstate:							
a. St. Cloud Metropolitan Nonattainment Area	c	*a*	d	d	d	f	d
b. Remainder of AQCR	c	*a*	d	d	d	d	d
Southeast Minnesota-La Crosse (Wisconsin) Interstate:							
a. Red Wing Region	c	h	a	a	d	d	d
Duluth (Minnesota)-Superior (Wisconsin) Interstate:							
a. Cioquet Nonattainment Area	a	h	c	a	d	d	d
b. Masabi Iron Range Nonattainment area	*a*	h	c	a	d	d	d
c. Silver Bay Nonattainment Area	*a*	h	c	a	d	d	d
d. Remainder of AQCR	*a*	*a*	c	a	d	d	d
Metropolitan Fargo-Moorhead Interstate	c	a	d	d	d	d	d
Minneapolis-St. Paul Intrastate	a	a	a	a	d	May 31, 1975.e	d
Northwest Minnesota Intrastate:							
a. East Grand Forks Nonattainment Area	c	h	d	d	d	d	d
b. Remainder of AQCR	c	a	d	d	d	d	d
Southwest Minnesota Intrastate	d	d	d	d	d	d	d

a. July 1975.
b. 5 years from plan approval or promulgation.
c. Air quality levels presently below primary standards.
d. Air quality levels presently below secondary standards.
e. Transportation and/or land use control strategy to be submitted no later than April 15, 1973.
f. December 31, 1982.
g. December 31, 1987.
h. 18-month Extension granted.

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.1226 (1978).

[FR Doc. 79-38234 Filed 12-12-79; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1361-5]

Approval and Promulgation of Implementation Plans; Final Revision to Idaho State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 10, 1979 EPA published in the **Federal Register** an Advanced Notice of Proposed Rulemaking (44 FR 40360–61) describing the settlement reached between the Bunker Hill Company and EPA on June 11, 1979 and announcing its availability for inspection. Thereafter, on September 7, 1979, EPA proposed to promulgate the Settlement Agreement reached between the Bunker Hill Company and EPA as a revision to the Idaho State Implementation Plan (SIP) (44 FR 52271 *et seq.).* EPA is today taking final action to promulgate, without change, the proposed rule as a revision to the Idaho SIP.

DATE: This rule will become effective January 14, 1980.

ADDRESSES: The Settlement Agreement, Interim Regulation and materials relevant to this final action are available for inspection at the following EPA offices:

Air Programs Branch, M/S 629, Docket No. 10A-79-4, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Central Docket Section, Room WSM-2903B, Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20460.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Environmental Protection Agency, Air Programs Branch, M/S 625, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442–1226, (FTS) 399–1226.

FOR FURTHER INFORMATION CONTACT: George C. Hofer, Chief, Technical Support and Special Projects Section, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442–1125, (FTS) 399–1125.

SUPPLEMENTARY INFORMATION:

Background

On January 1972, the State of Idaho submitted a State Implementation Plan (SIP) to EPA in accordance with Section 110 of the Clean Air Act. On May 31, 1972, EPA approved the SIP except for the sulfur dioxide (SO_2) control strategy and compliance schedule sections (37 FR 10842). On October 7, 1974, EPA proposed regulations for the control of SO_2 from the Bunker Hill complex requiring 96 percent permanent control of SO_2 (39 FR 36018). Thereafter, on January 10, 1975, the State of Idaho submitted to EPA, as a proposed revision to the SIP, a regulation (Regulation S) for the control of SO_2 at the Bunker Hill complex. On April 10, 1975, EPA proposed to disapprove the Idaho submission on the grounds that it did not meet the requirements of Section 110 of the Clean Air Act and 40 CFR Section 51.13. On November 19, 1975, EPA approved portions of the State of Idaho's Regulation S including the ultimate emission limitation, disapproved other portions of Regulations S including the interim emission limitation, and promulgated federal regulations to replace the disapproved portions (40 FR 53584). Thereafter, the Bunker Hill Company challenged EPA's final rulemaking action in this matter.

The United States Court of Appeals for the Ninth Circuit issued its opinion on July 5, 1977 and remanded the matter back to EPA for further administrative proceedings.[1] The Court stated that a more extensive administrative record was needed to show that the requirements promulgated by EPA dealing with the interim emission limitation were technologically feasible.

In response to a request by Bunker Hill, EPA promulgated regulations on

[1] *Bunker Hill Company v. EPA*, 572 F.2d 1286 (9th Cir. 1977), hearing denied, No. 75-3670 (December 28, 1977).