

(vii) A statement that gross rents (contract rents plus any utility allowance) will not exceed the applicable fair market rents by more than the amount allowed under § 880.204(b)(1) or § 881.204(b)(1). For new construction and substantial rehabilitation projects, the applicable fair market rents are those published in accordance with the procedures in § 888.105. For projects that are acquired with or without moderate rehabilitation for group homes for the nonelderly handicapped, the applicable fair market rents are 75 percent of the Schedule A fair market rents.

(Information collection requirements approved by the Office of Management and Budget under control Nos. 2502-0267 and 2502-0039.)

5. By revising the introductory text of § 885.215 to read as follows:

§ 885.215 Limitation on numbers of units.

No organization shall participate as Sponsor, Co-Sponsor, or Borrower in the filing of an application or applications for a reservation of Section 202 funds in a single Region in a single fiscal year in excess of that necessary to finance the construction, substantial rehabilitation, or Acquisition With or Without Moderate Rehabilitation, of 300 units of housing and related facilities.

6. By revising § 885.220(d)(4) to read as follows:

§ 885.220 Review of application for fund reservation.

(d) * * *

(4)(i) Before project selection, the Field Office shall complete an environmental review in compliance with the National Environmental Policy Act of 1969 and the related authorities in 24 CFR Part 50, and shall determine whether the proposed site is in compliance with Executive Order 11988, Floodplain Management, and Executive Order 11990, Wetlands Protection.

(ii) No financial assistance shall be approved for acquisition, construction, reconstruction, repair, or improvement of a building located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless (A) the community in which the area is situated is participating in the National Flood Insurance Program in accordance with the regulations thereunder (44 CFR Parts 59-79), or (B) less than a year has passed since FEMA notification regarding such hazards, and flood insurance on the structure is obtained in compliance with section

102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 42 U.S.C. 4001).

7. By revising § 885.230 to read as follows:

§ 885.230 Duration of Section 202 fund reservations.

The Field Office Manager, subject to the approval of the Assistant Secretary, may cancel a fund reservation at any time if it can be established that the Borrower is not making satisfactory progress toward the start of construction, rehabilitation, or acquisition, and shall cancel any reservations of Section 202 loan funds for projects for which the construction, substantial rehabilitation, or Acquisition With or Without Moderate Rehabilitation is not begun within 18 months after the Notice of Section 202 Fund Reservation is issued, unless an extension of time, not to exceed six months, is requested of and granted by the Field Office Manager.

8. By revising § 885.415(p) and by adding the OMB Control Numbers to the end of the section to read as follows:

§ 885.415 Requirements prior to initial loan closing.

(p) Contractor's and Subcontractor's Certifications Concerning Labor Standards and Prevailing Wage Requirements, except for loans involving acquisition without moderate rehabilitation.

(Information collection requirements approved by the Office of Management and Budget under Control Nos. 2502-0267 and 2502-0039.)

9. By revising § 885.420(b) to read as follows:

§ 885.420 Loan disbursement procedures.

(b) All disbursements to the Borrower shall be made on a periodic basis in an amount not to exceed the HUD-approved cost of portions of construction or rehabilitation work completed and in place (except as modified in paragraph (d) of this section), minus the appropriate holdback, as determined by the Field Office.

10. By revising the title of § 885.425 and amending § 885.425(a) to read as follows:

§ 885.425 Completion of acquisition with or without moderate rehabilitation, construction or substantial rehabilitation, execution of HAP Contract, and cost certification and approvals by HUD.

(a) The Borrower must satisfy the requirements for completion of Acquisition With or Without Moderate Rehabilitation, construction or substantial rehabilitation and approvals by HUD before submission of a final requisition for disbursement of loan proceeds.

Dated: September 18, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-22901 Filed 9-24-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

34 CFR Parts 400, 401, 407, 408, 409, 410, 411, 412, 414, 415, 416 and 417

State Vocational Education Program and Secretary's Discretionary Programs of Vocational Education

Correction

In FR Doc. 85-19531 beginning on page 33226 in the issue of Friday, August 16, 1985, make the following corrections:

1. On page 33226, in the second column, third line, "program" should read "programs". On the same page, in the third column, in the thirty-seventh line, insert "all" between "to" and "the".

2. On page 33228, in the first column, in the seventh line of the first paragraph, "it" should read "if", and in the last line, "project" should read "projects". In the same column, in the sixth line of the last paragraph, the first word should read "this". In the third column, under item (3), in the second paragraph, fourth line, a comma should follow "Act".

3. On page 33229, in the second column, first paragraph, in the fifth line, remove the comma following "tools".

4. On page 33230, in the first column, in the second paragraph under item (8), in the fifth line, "Educational" should read "Education". In the second column, the last sentence of the first paragraph is corrected to read as follows: "Also, allocations for disinterested eligible recipients would then have to be reallocated to those eligible recipients which did wish to participate, thus creating an additional administrative burden on States."

5. On page 33236, in the third column, in § 401.12(b)(1), in the twelfth line, the last word should be "and". And in paragraph (b)(2)(i), in the first line, "Employees" should read "Employers".

6. On page 33239, in the first column, the authority citation following § 401.19 (a)(3) is corrected to read as follows: "(Sec. 113(b)(1)(C); 20 U.S.C. 2323(b)(1)(C))".

7. On page 33243, in the first column, in § 401.54(b)(5), the fourth line is corrected to read: "credit is given toward an associate or". On the same page, the headings for §§ 401.55 and 401.56 are corrected by removing the word "shall".

8. On page 33244, in the second column, the last line of § 401.60(a)(13) is corrected to read "if these institutions or employers—".

9. On page 33247, in the third column, in § 401.79(c), in the third line, "the" should read "that".

10. On page 33248, in the first column, in § 401.91(a), in the third line, "program" should read "paragraph". On the same page and on page 33249, the phrase "if fifty percent" should read "is fifty percent" in § 401.94(b) (1)(ii), (iii), (v) and (2)(ii).

11. On page 33253, in the first column, in § 407.31(d), the second of the two paragraphs designated as "(3)" is correctly designated as "(e)"; also, in the correctly designated § 407.31 (e), paragraph (c) is correctly designated as "(2)". On the same page, in the second column, in § 407.32(a), in the third line, the section citation should read "§ 407.31".

12. On page 33255, in the first column, in § 408.32, the authority citation is corrected to read: "(Sec. 441(d)(5); 20 U.S.C. 2441(d)(5))".

13. On page 33256, in the first column, in § 409.31, in the first line of the introductory text, "used" should read "uses"; also in § 409.31(b), first line, "or" should read "of".

14. On page 33259, in the second column, in § 411.31(e)(2)(ii), first line, "relating" should read "relation".

15. On page 33262, in the second column, in § 414.30(a), second line, "applicant" should read "application".

16. On page 33265, in the third column, in § 416.10(c), in the first line, "working" should read "worker".

17. On page 33267, in the first column, in § 417.1, the authority citation is corrected to read: "(Sec. 404; 20 U.S.C. 2404)".

18. On page 33271, in the first column, in the fifth line from the bottom, "school" should read "schools".

19. On page 33272, in the third column, in the first comment paragraph, in the fifth line, "other" should read "others".

20. On page 33275 in the third column, in the last paragraph, the ninth line, "program" should read "programs".

21. On page 33279, in the third column, in the first paragraph, between "be" and "as" in the fifth line, insert "defined".

22. On page 33285, in the third column, the third Comment paragraph is corrected to read as follows:

Comment. One commenter pointed out that § 401.76(c)(2)(ix) referred to "State and local administration" while section 332(b)(2) of the Act refers to "State and local . . . supervision." The commenter asked why the statutory language was not used in the regulation.

23. On page 33286, in the third column, in the last paragraph, the second line is corrected to read as follows: "The Secretary does not believe that Congress".

24. On page 33287, in the first column, in the second Comment paragraph under Section 401.94, in the seventh line, "an" should read "and".

25. On page 33293, in the third column, in the first Response paragraph, in the second line, the section should read "417(b)".

26. On page 33294, in the third column, in the first Response paragraph, in the seventh line, "required" should read "requires".

27. On page 33297, in the first column, in the third Question paragraph, in the third line, "the" should read "and".

28. On page 33300, in the first column, in the first Question paragraph under Section 401.91, in the third line, "service" should read "reserve".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Waiver of Overpayments

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration amends 38 CFR 1.962 by clarifying that the term "overpayment" excludes payments received by third parties who are neither payees nor beneficiaries. This situation usually arises when erroneous benefit payments are made shortly after a payee's or beneficiary's death and these payments are received by, or credited to the account of, a non-entitled third party. Title 38, United States Code, section 3102(a) prohibits recovery of an overpayment where recovery would be against equity and good conscience. Currently, 38 CFR 1.963(c) permits waiver consideration of Veterans Administration payments that

have come into the possession of a person other than the person entitled. By clarifying that such payments to third parties who are neither payees nor beneficiaries are excluded from the definition of an overpayment, and by deleting § 1.963(c), we will properly limit waiver consideration to deserving veterans and beneficiaries.

EFFECTIVE DATE: September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Peter T. Mulhern (202) 389-3405.

SUPPLEMENTARY INFORMATION: On page 45870 of the Federal Register of November 21, 1984 there was published a notice of proposed rulemaking to amend our regulations so that waiver will be properly limited to deserving veterans and beneficiaries. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendments. We received no comments during this time. The amendments will be applicable nationwide. However, for debts which are within the jurisdiction of the Hartford, Connecticut, Regional Office, the Hartford Committee on Waivers and Compromises will continue to consider waiver request made by non-payees within the Regional Office's jurisdiction who have received compensation or pension benefit payments to which they have no claim of entitlement. This deviation is necessary for the Hartford Regional Office because of a decision rendered on April 11, 1983, by the U.S. District Court for the District of Connecticut. The court order requires that notice and waiver rights be extended to individuals within the jurisdiction of the Hartford Regional Office who are indebted to the U.S. because compensation or pension benefit payments were transferred, subsequent to the death of a beneficiary, into an account which these individuals held jointly with the deceased beneficiary. The U.S. District Court has not rescinded this order. However, in the event modification or rescission of the order is obtained by the Department of Justice, these regulations will be given effect within the jurisdiction of the Hartford Regional Office.

The Administrator hereby certifies that these rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these rules will affect only a small

number of individuals indebted to the U.S. Government. Small entities are not directly regulated or significantly affected. These rules have also been reviewed under E.O. 12291. They have been determined to be nonmajor because they will only affect certain individuals requesting waiver of collection of an indebtedness to the U.S. Government. They will not have an \$100 million annual impact on the economy. These rules will not have any adverse economic impact on, or increase costs or prices to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance Number.

List of Subjects in 38 CFR Part 1

Claims, Administrative practices and procedures, Veterans.

The proposed amendments to the regulations are hereby adopted as final and are set forth below.

Approved: September 3, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.

Deputy Administrator.

PART 1—[AMENDED]

38 CFR Part 1, General, is amended as follows:

§ 1.957 [Amended]

1. In § 1.957, paragraph (a)(2)(ii)(B) and the title and introductory text of paragraph (b) are amended by changing the title "Chief, Centralized Accounts Receivable Division" to "Chief, Finance and Centralized Accounts Receivable Division."

2. The introductory paragraph and paragraph (a) to § 1.962 are revised to read as follows:

§ 1.962 Waiver of overpayment.

There shall be no collection of an overpayment, or any interest thereon, which results from participation in a benefit program administered under any law by the VA when it is determined by a regional office Committee on Waivers and Compromises that collection would be against equity and good conscience. For the purpose of this regulation, the term "overpayment" refers only to those benefit payments made to a designated living payee or beneficiary in excess of the amount due or to which such payee or beneficiary is entitled. The death of an indebted payee, either prior to a request for waiver of the indebtedness or during Committee consideration of the waiver request, shall not preclude waiver consideration. There shall be no waiver consideration of an indebtedness

that results from the receipt of a benefit payment by a non-payee who has no claim or entitlement to such payment.

(a) Waiver consideration is applicable in an indebtedness resulting from work study and education loan default, as well as indebtedness of a veteran-borrower, veteran transferee, or indebted spouse of either, arising out of participation in the loan program administered under 38 U.S.C. ch. 37. Also subject to waiver consideration is an indebtedness which is the result of VA hospitalization, domiciliary care, or treatment of a veteran, either furnished in error or on the basis of tentative eligibility.

(38 U.S.C. 3102(a))

§ 1.963 [Amended].

3. Section 1.963 is amended by removing paragraph (c).

(38 U.S.C. 210(c))

[FR Doc. 85-22863 Filed 9-24-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2899-8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final rulemaking to approve, in part and disapprove in part, revisions to the Illinois State Implementation Plan (SIP). This rulemaking pertains to rules for issuance of construction permits to new or modified air pollution sources affecting nonattainment areas in Illinois. It also pertains to rules governing public participation in the air permit programs for major sources in nonattainment areas. USEPA's action is based upon revisions which were submitted by the State to satisfy the requirements of part D of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rulemaking becomes effective on September 25, 1985.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at:

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

Public Information Reference Unit, U.S. Environmental Protection Agency, 401

M Street, SW., Washington, D.C. 20460.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604, Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph Cano at (312) 886-6035.

SUPPLEMENTARY INFORMATION: On April 9, 1984 (49 FR 13894), USEPA proposed rulemaking and solicited public comment on Illinois Pollution Control Board (IPCB) Rule 203 entitled "Major Stationary Source Construction and Modification" (NSR rule) which was submitted to USEPA on August 23, 1983, in the form of a July 14, 1983, Opinion and Order of the Board (R81-16-Docket B). In the same rulemaking, USEPA proposed action and solicited public comment on draft Illinois Environmental Protection Agency (IEPA) Rule 252 entitled "Rules Governing Public Participation in the Air Pollution Permit Program for Major Sources in Nonattainment Areas". The public participation rules were submitted in draft form by the State which requested that they be parallel processed. On June 19, 1984, the State submitted these public participation rules in final form. Several public comments were received in response to USEPA's notice of proposed rulemaking.

USEPA has determined that these public comments are no longer pertinent to this rulemaking because of a Seventh Circuit Court of Appeals decision subsequent to USEPA's proposed rulemaking. Today's Federal Register notice discusses this decision and announces USEPA's final rulemaking action.

1. NSR Rule

Although in its proposed rulemaking, USEPA proposed to approve, in part and disapprove in part, and take no action on other portions of the Illinois NSR rule, this action was precluded by a Seventh Circuit decision reached subsequent to USEPA's proposed rulemaking. In *Bethlehem Steel Corporation v. Gorsuch* 742 F.2d 1028 (7th Cir., 1984), the Court held that

USEPA may not approve parts of a SIP and disapprove other parts if the effect of the action is to make the SIP stricter than the State ever intended. Specifically, the Court said "Congress did not mean on the one hand to create a procedure for the USEPA's revising State regulations to make them stricter, and on the other to allow the USEPA to skip the procedures [the section 110 disapproval/promulgation process] merely by naming what it was doing partial approval".

In addition, the State expressed its intent that the regulation be treated as a totality when it declared in § 203.155 of the Illinois NSR rule:

Notwithstanding Rule 113 of this Chapter, if any provision of Part 203 is stayed or declared invalid by a final order, no longer subject to appeal, of any court of competent jurisdiction, then the entirety of Part 203 shall be deemed stayed or invalidated until the stay is lifted or the Pollution Control Board acts to revalidate the Part.

The *Bethlehem* decision governs this rulemaking because the effect of USEPA's proposed rulemaking (approving part of the NSR rule and disapproving the other parts) would have been to make new source review in nonattainment areas stricter than ever intended by the State of Illinois. The decision by the 7th Circuit in *Bethlehem* prohibits USEPA from taking such rule making action. Therefore, for the above cited reasons, USEPA disapproves the incorporation of the entire Illinois NSR rule in the SIP.

2. Public Participation

Proposed Action: USEPA proposed to approve draft IEPA Rule 252 entitled "Rules Governing Public Participation in the Air Pollution Permit Programs for Major Sources in Nonattainment Areas" (35 Illinois Administrative Code 252) as a SIP revision based on a September 16, 1983, request from the State of Illinois. This rule was submitted in final form on June 19, 1984.

USEPA Final Action: USEPA has reviewed the State's finally-adopted rule and found no significant changes from the draft regulations originally submitted by the State. No public comments concerning this rule were received. USEPA, therefore, approves the incorporation of this rule into the Illinois SIP. Neither the disapproval of the State's NSR rule nor the decision reached by the appellate court cited above affects USEPA's approval of this rule.

3. Contemplated Future Actions

In a Federal Register notice to be

published shortly, USEPA will propose promulgation of a NSR rule for the State of Illinois which meets the minimum Federal requirements as provided in § 51.18 of Title 40 of the Code of Federal Regulations. This course of action has been determined by representatives of the State of Illinois and USEPA to be the most expeditious means of providing Illinois with New Source Review rules.

If the State adopts and submits acceptable NSR rules to USEPA, USEPA will begin rulemaking on the State's rules. If finally approved by USEPA, the State's NSR rule would replace any federally promulgated NSR rule.

Under the Regulatory Flexibility Act 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b), this requirement may be waived if USEPA certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over a population of less than 50,000.

This rule will not have a significant economic effect on a substantial number of small entities. It only approves or disapproves requirements imposed by the State of Illinois. No new requirements are imposed.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

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

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

Dated: September 6, 1985.

Lee M. Thomas,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7442.

§ 52.720 [Amended]

2. Section 52.720 Identification of Plan is amended by adding paragraph (c)(56) to read as follows:

* * *

(c) * * *

(56) On June 19, 1984, the State submitted Illinois Environmental Protection Agency Rule 252 entitled, "Rules for Governing Public Participation in the Air Pollution Permit Program for Major Source in Nonattainment Areas."

(i) Incorporation by Reference

(A) Illinois Environmental Protection Agency Rule 252 entitled, "Rule for Governing Public Participation in the Air Pollution Permit Program for Major Sources in Nonattainment Areas," published on June 8, 1984.

* * *

3. Section 52.736 Review of New Sources and Modifications is revised to read as follows:

§ 52.736 Review of new sources and modifications.

(a) Part D Disapproval. USEPA disapproves Illinois Pollution Control Board Rule 203 as adopted on July 14, 1983, and submitted to USEPA on August 23, 1983. The moratorium on construction and modification of new sources in nonattainment areas as provided in section 110(2)(I) of the Clean Air Act remains in effect for sources subject to the State's rule.

[FR Doc. 85-22290 Filed 9-24-85; 8:45 am]

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40 CFR Part 52

[A-1-FRL-2901-9]

Approval and Promulgation of Implementation Plans; Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.