

the industry's need to protect privileged data and information are both accommodated by the requirement for an agreement with a State to protect the data. Furthermore, only a specifically designated official of the State can inspect the data and information. The DOI feels that this is adequate protection for the industry while accommodating the legitimate needs of the affected States. As a prospective onshore base for offshore work in the North Atlantic and a tankering harbor, the States of New York and Rhode Island have a legitimate need to know.

The DOI has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI has also determined that this document is not a major rule under Executive Order 12291 because there is no economic effect expected from a change in a definition.

The DOI certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) as the rule neither imposes new requirements nor deletes existing ones. In addition, neither of the two States affected by the rule nor the overwhelming majority of operations involved in offshore activities who own the data and information are small entities.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Author: This document was prepared by Jane A. Roberts, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 252

Continental shelf, Freedom of information, Intergovernmental relations, Oil and gas exploration, Public lands/mineral resources, Reporting and recordkeeping requirements.

Dated: February 19, 1986.

Wm. D. Bettenberg,

Director, Minerals Management Service.

PART 252—[AMENDED]

For the reasons set forth above, 30 CFR Part 252 is amended as follows:

1. The authority citation for Part 252 continues to read as follows:

Authority: Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq., as amended, Pub. L. 95-372; Freedom of Information Act (5 U.S.C. 552).

2. Section 252.2(e) is revised to read as follows:

§ 252.2 Definitions.

(e) "Area adjacent to a State" means all of that portion of the OCS included within a planning area if such planning area is bordered by that State. The portion of the OCS in the Navarin Basin Planning Area is deemed to be adjacent to the State of Alaska. The States of New York and Rhode Island are deemed to be adjacent to both the Mid-Atlantic Planning Area and the North Atlantic Planning Area.

[FR Doc. 86-6603 Filed 3-25-86; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 291

Recreation Management; Occupancy and Use of Sites and Areas of Concentrated Public Use

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture hereby establishes regulations to recover Federal costs associated with administration of user reservation systems on some National Forest System recreation areas and sites. This action is necessary to continue protection of resources and to preserve opportunities for high quality recreation experiences at heavily used areas.

EFFECTIVE DATE: This rule is effective April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lennon, Recreation Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (202) 447-2311.

SUPPLEMENTARY INFORMATION: Some highly popular National Forest recreation areas, recreation sites, and Wilderness Areas have reached their use capacity. Further increases in the numbers of people using these areas and sites will result in crowded conditions, unavailable facilities, a degraded recreation or Wilderness experience, and damage to the resource. In such cases, the Forest Service sometimes institutes a reservation system. By controlling numbers of recreation visitors through reservations, the Forest Service ensures that the area or site continues to be available for use, that the quality of the recreation opportunity remains at the desired level, and that recreationists will be able to participate in the activity when they arrive at the area or site.

The Forest Service cost for processing requests and issuing and checking reservations (permits) on an area or site has risen sharply over the last several years. On one Wild and Scenic River, the cost of administering a reservation system has grown to \$40,000 a year.

Because issuance of a reservation is a special service to the user, the agency has proposed revising its regulations to permit recovery of Federal costs associated with this service. The proposed rule was published on Nov. 15, 1984, at 49 FR 45177.

Under the proposed rule, fee levels would be based upon anticipated costs, which are forecasted to range from \$2.00 to \$8.00. Fees would be nonrefundable. The proposed rule would also require posting areas subject to fees.

Comments on the proposed rule were received from 29 parties: Federal agencies (5), private industry (2), citizens' groups (10), and individuals (12). Major comments and responses are summarized below.

Public Comments and Responses

Comment: The reservation fee singles out certain National Forest user groups for inequitable treatment and will create an unnecessary burden upon those users from the standpoint of costs and time to get a permit.

Response: The fee system will apply to a limited group of users. However, these same users are receiving the benefits from the reservation service and those benefits are costing significant amounts above the normal operation and maintenance costs. The operational and maintenance costs will continue to be financed by appropriated funds. Direction developed to implement this rule will establish the importance of applying the fee in situations where it may be done without burdensome time and cost impacts to the user and the administrator.

Comment: Tax monies have already been paid for the management of National Forests, therefore, additional fees should not be required.

Response: The intent of Congress is clearly stated in 31 U.S.C. 9701. Where special services are provided for a particular group of users, a fee may be charged for the service. The agency has determined that, in the situations described above, there are users who are getting the benefits of reservations and that the costs of the reservations are sufficient to warrant recovery of the costs.

Comment: Several reviewers asked where the money collected for reservations would go and if it will be

available for use on the unit that collects it.

Response: By law, the money must be deposited in the U.S. Treasury and will not be directly available for use on the unit. Returning the monies to the local unit would require new legislation.

Comment: Implementation of the rule should be delayed until the entire Forest Service fee proposal can be coordinated and examined by the President's Commission on Americans Outdoors.

Response: The Forest Service has been actively considering a proposal for a general use fee. That proposal is of much broader scope with extensive policy ramifications and would require legislation. It has been placed before the President's Commission as an item that the Forest Service would like to see thoroughly discussed. The subject of this rulemaking is of a different nature and much narrower in scope and implication, is based upon existing law, and meets a current resource management need. Therefore, we felt it is advisable to move forward with implementation of this rule.

Comment: Additional details are needed to understand how the rule will be applied.

Response: Implementation instructions have been developed for issuance in the Forest Service Manual, the principal source of direction to Forest Service personnel. Included in the instructions are delegations of authority to Forest Supervisors to collect fees, as well as a list of criteria Supervisors are to use in determining where fees will be collected. The criteria are: a substantial number of people use the site or area; recreation use is near or above the use capacity of the site or area; costs of the permit reservation system are significant; and conditions exist which lend themselves to the implementation of a reservation fee without burdensome and costly requirements on the user and agency. The full text of this directive appears as a separate notice in this issue of the *Federal Register*.

Additional Comments: In addition to the preceding major comments received on the proposed rule, reviewers made a number of suggestions:

- Distinguish between recreation areas and Wilderness Areas.
- Broaden the scope of the rule to include recreation sites.
- Include a citation to Pub. L. 97-258 concerning fees and charges.
- Explain what is meant by "other special services."

Response: The final rule adopts the first three suggestions and deletes the phrase "other special services."

The following comments were received that relate to aspects of the overall reservation (permit) process:

- No limits on use should be imposed unless users stay overnight.
- Permit systems discourage use and over-regulate users.
- Reservation fees should not be used as a method to adjust allocations between publics served by outfitters and guides and those that are not.

Response: These comments relate to matters beyond the scope of this rule and cannot be dealt with as part of this rulemaking.

Except as noted in the foregoing discussion of comments received, the final rule is identical to the proposed rule.

Regulatory Impact

This rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined that the regulation is not a major rule. It will result in an insignificant increase in costs to individual users of the selected sites and areas while permitting the Government to recoup administrative expenses for the reservation system. Because the regulation applies to individual recreation users in a limited situation, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets.

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined that this action will not have a significant economic impact on a substantial number of small entities.

This rule is determined to be limited in context and intensity and to produce little or no environmental effects, individually or cumulatively, to either the biological or physical component of the human environment. Therefore, it is unnecessary to prepare an environmental assessment or an environmental impact statement.

Lists of Subjects in 36 CFR Part 291

Recreation and recreation areas.

Therefore, for the reasons set forth above, Part 291 of Chapter II of Title 36 of the Code of Federal Regulations is hereby amended as follows:

1. Part 291 is amended by adding the following Table of Contents and authority citation. The authority citation which follows § 291.9 is removed.

PART 291—OCCUPANCY AND USE OF DEVELOPED SITES AND AREAS OF CONCENTRATED PUBLIC USE

Sec.

291.9 Admission fees and recreation use fees.

291.10 Reservation fees.

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); Sec. 4(b,c) Pub. L. 92-347, 86 Stat. 460 (16 U.S.C. 4601-6a(b,c)); Sec. 10(d), Pub. L. 90-542, 82 Stat. 916 (16 U.S.C. 1281(d)); Sec. 7(i), Pub. L. 90-543, 82 Stat. 925, as amended (16 U.S.C. 1246(i)); Sec. 4(b), Pub. L. 88-577, 78 Stat. 893 (16 U.S.C. 1133(b)); Sec. 4(a), Pub. L. 95-495, 92 Stat. 1650; 65 Stat. 290 (31 U.S.C. 9701).

2. Add a new section 291.10 to read as follows:

§ 291.10 Reservation fees.

(a) The Forest Service may charge fees to recover expenses incurred in providing reservation services for the public use of recreation areas and sites and Wilderness Areas where limitations on use are deemed necessary or desirable to achieve the management purposes of an area of the National Forest System. The Chief of the Forest Service or his delegate shall establish the amount of such fees.

(b) Forest Service officials shall prominently post clear notice that a reservation fee has been established at each area, site or Wilderness Area and at appropriate locations therein. Publications distributed at such areas, sites, and Wilderness Areas shall also include such notice.

Dated: March 20, 1986.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86-6628 Filed 3-25-86; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Parts 18, 18a and 18b

Nondiscrimination in Federally-Assisted Programs; Technical Amendments

AGENCY: Veterans Administration.

ACTION: Final Technical Amendments.

SUMMARY: The VA (Veterans Administration) amends its regulations for the enforcement of nondiscrimination in programs and activities receiving Federal financial assistance to: (1) Eliminate sexually biased language; (2) change the title of hearing examiner to administrative law judge, consistent with Pub. L. 95-251, 92

Stat. 183; (3) update the appendices to the regulations which provide a listing of the Federal financial assistance programs administered by the VA; and (4) correct references to the Department of Health, Education and Welfare, which was reorganized in 1980 into two independent departments: The Department of Health and Human Services and the Department of Education.

EFFECTIVE DATE: March 26, 1986.

FOR FURTHER INFORMATION CONTACT:

Ms. Ana Matilde Del Toro, Equal Employment Specialist, Office of Equal Opportunity (006B5), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 389-2150.

SUPPLEMENTARY INFORMATION: The VA finds that good cause exists for making these regulation amendments final without previous publication of a notice of proposed rulemaking. All the changes contained in these regulations are technical ones designed to correct erroneous references and eliminate sexually biased language. There are no substantive changes. Public participation in this rulemaking is therefore unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), and are therefore not subject to the requirements of the Act. Nevertheless, these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612.

The Administrator hereby determines that these regulations do not contain a major rule as the term is defined by Executive Order 12291, Federal Regulation. The regulations will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs and prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete in domestic or export markets.

These amendments do not impose any additional reporting or recordkeeping requirements on the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 38 CFR Parts 18, 18a, and 18b

Administrative practice and procedure, Age discrimination,

Authority delegations, Civil rights, Handicapped, Veterans.

Approved: March 19, 1986.

Everett Alvarez, Jr.,
Acting Administrator.

PART 18—[AMENDED]

38 CFR Part 18, nondiscrimination in Federally-Assisted Programs of the Veterans Administration—Effectuation of Title VI of the Civil Rights Act of 1964, is amended as follows:

§ 18.3 [Amended]

1. In § 18.3, paragraph (b)(1) is amended by removing "his" in (b)(1)(iii); by removing the words "he satisfies" and adding the words "is satisfied." at the end of the sentence in (b)(1)(v); and by removing "him" in (b)(1)(vi).

§ 18.4 [Amended]

2. Section 18.4 is amended by changing "he" to "the recipient" in paragraph (a)(1); and changing "him" to "the official" in (c).

§ 18.6 [Amended]

3. Section 18.6 is amended by removing "his" in paragraphs (b) and (c) and by changing "him" to "the official" in paragraph (b).

4. Section 18.7 is amended by removing "his" in paragraphs (a), (c), and (d) (1) and (2); by changing "he" to "the individual" in paragraph (e) and by revising paragraph (b) to read as follows:

§ 18.7 Conduct of investigations.

(b) *Complaints.* Any person or any specific class of individuals who believe they have been subjected to discrimination prohibited by this part may themselves, or by a representative, file with the responsible agency official or designee a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination unless the time for filing is extended by the responsible agency official or designee.

§ 18.8 [Amended]

5. Section 18.8 is amended by removing the word "his".

§ 18.9 [Amended]

6. In § 18.9(b) the word "he" is changed to "the official"; "his" is changed to "the official's"; and "hearing examiner" is changed to "an administrative law judge".

7. In § 18.10, paragraphs (a), (b), (d), (e) and (g) (2) are revised to read as follows:

§ 18.10 Decisions and notices.

(a) *Procedure on decisions by an administrative law judge.* If the hearing is held by an administrative law judge such administrative law judge shall either make an initial decision, if so authorized, or certify the entire record including recommended findings and proposed decision to the responsible agency official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the administrative law judge the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible agency official exceptions to the initial decision with reasons therefor. In the absence of exceptions, the responsible agency official may within 45 days after the initial decision serve on the applicant or recipient a notice that the decision will be reviewed. Upon the filing of such exceptions or of such notice of review the responsible agency official shall review the initial decision and issue a decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible agency official.

(b) *Decisions on record or review by the responsible agency official.* Whenever a record is certified to the responsible agency official for decision or the official reviews the decision of an administrative law judge pursuant to paragraph (a) of this section, or whenever the responsible agency official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with the official briefs or other written statements of its contentions, and a written copy of the final decision of the responsible agency official shall be sent to the applicant or recipient and to the complainant, if any.

(d) *Rulings required.* Each decision of an administrative law judge or responsible agency official shall set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Administrator.* Any final decision by an administrative law judge which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction

available under this part of the Act, shall promptly be transmitted to the Administrator personally, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(g) *Post termination proceedings.* * * *

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible agency official determines that those requirements have been satisfied, the official shall restore such eligibility.

§ 18.13 [Amended]

8. Section 18.13 is amended by removing the word "his" in paragraph (c).

9. Appendix A to Part 18, Subpart A, is revised to read as follows:

Appendix A to Subpart A—Statutory Provisions To Which This Subpart Applies

1. Payments to State homes (38 U.S.C. 641-643).

2. State home facilities for furnishing domiciliary, nursing home, and hospital care (38 U.S.C. 5031-5037).

3. Space and office facilities for representatives of recognized national organizations (38 U.S.C. 3402(a)(2)).

4. All-volunteer force educational assistance, vocational rehabilitation, post-Vietnam era veterans' educational assistance, survivors' and dependents' educational assistance, and administration of educational benefits (38 U.S.C. chs. 30, 31, 32, 34, 35 and 36, respectively).

5. Sharing of medical facilities, equipment, and information (38 U.S.C. 5051-5057).

6. Approval of educational institutions (38 U.S.C. 104).

7. Space and office facilities for representatives of State employment services (38 U.S.C. 244(1)).

8. Medical care for survivors and dependents of certain veterans (38 U.S.C. 613).

9. Transfers for nursing home care; adult day health care (38 U.S.C. 620).

10. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities (38 U.S.C. 620A).

11. Aid to States for establishment, expansion, and improvement of veterans cemeteries (38 U.S.C. 1008).

12. Assistance in establishing new medical schools; grants to affiliated medical schools; assistance to health manpower training institutions (38 U.S.C. Ch. 82).

13. Veterans Administration health professional scholarship program (38 U.S.C. 4141-4146).

14. Emergency veterans job training (Pub. L. 98-77, 97 Stat. 443-452).

§ 18.405 [Amended]

10. Section 18.405 is amended by changing "he or she considers" to "considered" in paragraph (d)(3).

§ 18.412 [Amended]

11. Section 18.412 is amended by changing "him or her" to "that person" in paragraph (a).

§ 18.433 [Amended]

12. In § 18.433, paragraph (c) is amended by changing "or to his or her" to "or" in paragraphs (c)(1), (2) and (3); and by changing "his or her" to "a" in paragraph (c)(2).

§ 18.454 [Amended]

13. Section 18.454 is amended by changing the cite "§ 18.433(d)" to "§ 18.433(b)".

14. Appendix A to Part 18, Subpart D, is amended by revising provisions 3, 10 and 12 and by adding new provisions 13 and 14 to read as follows:

Appendix A to Subpart D—Statutory Provisions To Which This Subpart Applies

3. Transfers for nursing home care; adult day health care (38 U.S.C. 620).

10. All-volunteer force educational assistance, vocational rehabilitation post-Vietnam era veterans educational assistance; veterans educational assistance, survivors' and dependents' educational assistance, and administration of educational benefits (38 U.S.C. chs. 30, 31, 32, 34, 35 and 36 respectively).

11. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities (38 U.S.C. 620A).

12. Aid to States for establishment, expansion, and improvement of veterans cemeteries (38 U.S.C. 1008).

13. Veterans Administration health professional scholarship program (38 U.S.C. 4141-4146).

14. Emergency veterans job training (Pub. L. 98-77, 97 Stat. 443-452).

PART 18a—[AMENDED]

38 CFR Part 18a, Delegation of Responsibility in Connection With Title VI, Civil Rights Act of 1964 is amended as follows:

15. The table of contents to Part 18a is amended by revising the title of § 18a.1 to "Delegations of responsibility between the Administrator and the Secretary, Department of Health and Human Services and the Secretary, Department of Education."

16. In § 18a.1 the section heading, introductory text of paragraph (b) and paragraph (b)(2) are amended by changing the title "Secretary, Department of Health, Education and

Welfare" to "Secretary, Department of Health and Human Services and the Secretary, Department of Education"; paragraph (b)(2)(iii), the paragraph following, and paragraphs (c), (d) and (e) are amended by changing the title "Department of Health, Education and Welfare" to Department of Health and Human Services or the Department of Education"; and paragraph (a) is revised to read as follows:

§ 18a.1 Delegations of responsibility between the Administrator and the Secretary, Department of Health and Human Services and the Secretary, Department of Education.

(a) Authority has been delegated to the Administrator of Veterans Affairs by the Secretary, Department of Health and Human Services, and the Secretary, Department of Education to perform responsibilities of those Departments and of the responsible Departmental officials under Title VI of the Civil Rights Act of 1964 and the Departments' regulations issued thereunder (45 CFR Part 80 and 34 CFR Part 100) with respect to: proprietary (i.e., other than public or nonprofit) educational institutions, except if operated by a hospital; and post secondary, nonprofit, educational institutions other than colleges and universities, except if operated by a college or university, a hospital, or a unit of State or local government (i.e., those operating such institutions as an elementary or secondary school, an area vocational school, a school for the handicapped, etc.).

(1) The compliance responsibilities so delegated include:

(i) Soliciting, receiving, and determining the adequacy of assurances of compliance under 45 CFR 80.4 and 34 CFR 100.4;

(ii) All actions under 45 CFR 80.6 including mailing, receiving, and evaluating compliance reports under § 80.6(b) and 34 CFR 100.6(b); and

(iii) All other actions related to securing voluntary compliance, or related to investigations, compliance reviews, complaints, determinations of apparent failure to comply, and resolutions of matters by informal means.

(2) The Department of Health and Human Services and the Department of Education specifically reserve to themselves the responsibilities for the effectuation of compliance under 45 CFR 80.8, 80.9, 80.10 and 34 CFR 100.8, 100.9 and 100.10.

* * *

§ 18a.2 [Amended]

17. Section 18a.2 is amended by changing the words "him and his" to "the Chief Benefits Director and" and by changing the last words of the section from "under his jurisdiction." to "under jurisdiction of the Chief Benefits Director."

§ 18a.3 [Amended]

18. Section 18a.3 is amended by changing the last words of the section from "under his jurisdiction." to "under jurisdiction of the Chief Medical Director."

§ 18a.4 [Amended]

19. Section 18a.4 is amended by removing the word "his" in the two places it appears in the paragraph following (c).

PART 18b—[AMENDED]

38 CFR Part 18b, Practice and Procedure Under Title VI of the Civil Rights Act of 1964 and Part 18 of this chapter, is amended as follows:

§ 18b.2 [Amended]

20. Section 18b.2 is amended by changing the word "him" to "the Administrator" and by removing the words "by him" in the last sentence.

21. Section 18b.11 is revised to read as follows:

§ 18b.11 Use of number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa.

§ 18b.14 [Amended]

22. Section 18b.14 is amended by removing the word "his".

§ 18b.16 [Amended]

23. Section 18b.16 is amended by changing the word "him" to "that person".

§ 18b.17 [Amended]

24. In § 18b.17, paragraph (a) is amended by changing the word "he" to "the officer"; paragraph (b) is amended by changing the words "His brief" to "The brief", by changing the word "he" to "the amicus curiae" both places it appears, and by removing the word "himself" both places it appears; and paragraph (c) is amended by changing the word "his" to "the officer's" and changing the word "he" to "the officer".

§ 18b.21 [Amended]

25. Section 18b.21 is amended by changing the word "he" to "one of them"

and by changing the word "his" to "that person's".

§ 18b.25 [Amended]

26. Section 18b.25 is amended by changing the word "his" to "the party's".

§ 18b.27 [Amended]

27. Section 18b.27 is amended by changing the word "his" to "a" and by changing the word "him" to "the presiding officer".

§§ 18b.31 and 18b.32 [Amended]

28. Sections 18b.31 and 18b.32 are amended by changing the word "his" to "the" wherever it appears.

§ 18b.33 [Amended]

29. Section 18b.33 is amended by changing the first "his" to "the" and by deleting the second occurrence of "his".

§ 18b.35 [Amended]

30. Section 18b.35 is amended by changing the word "him." to "the officer."

§ 18b.37 [Amended]

31. Section 18b.37 is amended by changing the word "his" to "the officer's".

§ 18b.40 [Amended]

32. Section 18b.40 is amended by changing the words "A hearing examiner" to "An administrative law judge".

33. Section 18b.41 is revised to read as follows:

§ 18b.41 Designation of an administrative law judge.

The designation of the administrative law judge as presiding officer shall be in writing, and shall specify whether the administrative law judge is to make an initial decision or to certify the entire record including recommended findings and proposed decision to the reviewing authority, and may also fix the time and place of hearing. A copy of such order shall be served on all parties. After service of an order designating an administrative law judge to preside, and until such administrative law judge makes a decision, motions and petitions shall be submitted to the administrative law judge. In the case of the death, illness, disqualification or unavailability of the designated administrative law judge, another administrative law judge may be designated to take that person's place.

§ 18b.42 [Amended]

34. In § 18b.42, the introductory text is amended by changing "He" to "The presiding officer"; and paragraphs (e) and (i) are amended by changing "him." to "the presiding officer."

§ 18b.51 [Amended]

35. In § 18b.51, paragraph (a) is amended by changing "he" to "the party"; and paragraph (b) is amended by removing the word "his" both times it appears.

§ 18b.52 [Amended]

36. Section 18b.52 is amended by changing the word "his" to "the officer's".

§ 18b.54 [Amended]

37. Section 18b.54 is amended by changing the words "he believes it" to "it is believed".

§ 18b.56 [Amended]

38. Section 18b.56 is amended by changing the word "he" and the words "him" to "the party".

§ 18b.61 [Amended]

39. Section 18b.61 is amended by changing the word "he" to "the party" and by changing the word "his" to "the party's" both places it appears.

§ 18b.65 [Amended]

40. Section 18b.65 is amended by removing the word "his" and by changing the words "he" and "him" to "the reviewing authority".

§ 18b.71 [Amended]

41. Section 18b.71 is amended by removing the words "his" and "he".

§ 18b.72 [Amended]

42. Section 18b.72 is amended by removing the word "his".

43. In § 18b.73, paragraph (b) is revised to read as follows:

§ 18b.73 Final decisions.

(b) Where the hearing is conducted by an administrative law judge who makes a recommended decision or upon the filing of exceptions to an administrative law judge's initial decision, the reviewing authority shall review the recommended or initial decision and shall issue a decision thereon, which shall become the final decision of the VA, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly sec. 10(c) of the Administrative Procedures Act), subject to the provisions of § 18b.75.

§ 18b.74 [Amended]

44. Section 18b.74 is amended by changing "he shall make" to "the party shall make"; by changing "his" to "his or her"; and by changing "he will serve" to "the reviewing authority will serve".

§ 18b.75 [Amended]

45. Section 18b.75 is amended by removing the first "his"; by removing "his own" twice and by changing "or if he serves" to "or serves".

§ 18b.77 [Amended]

46. Section 18b.77 is amended by changing the words "hearing examiner" to "administrative law judge"; and changing the words "Senate Committee on Labor and Public Welfare" to "Senate Veterans Affairs Committee".

§ 18b.90 [Amended]

47. Section 18b.90 is amended by removing "his" and by changing "his principal" to "the principal represented".

§ 18b.91 [Amended]

48. Section 18b.91 is amended by changing "him" to "the reviewing authority"; by removing "his" wherever it appears.

§ 18b.95 [Amended]

49. In § 18b.95 the last line is amended by changing the words "he considers the memorandum" to "the memorandum is considered".

[FR Doc. 86-6569 Filed 3-25-86; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2990-3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final rulemaking disapproving the 1982 carbon monoxide (CO) SIP attainment demonstration and rescission of the attainment date extension. The revision pertains to Cleveland CO SIP revision. USEPA's action is based upon a revision which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on April 25, 1986.

ADDRESSES: 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 Anne E. Tenner at (312) 886-6036, 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

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under Section 107 of the Act, USEPA has designated certain areas in each State as not attaining National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP), sulfur dioxide (SO₂), carbon monoxide (CO), ozone (O₃), and nitrogen dioxide (NO₂). See 43 FR 8982 (March 3, 1978) and 43 FR 45993 (October 5, 1978). For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982 (in certain cases, by December 31, 1987 for O₃ and/or CO). These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979) and, 44 FR 67182 (November 23, 1979).

In a February 3, 1983, Federal Register notice (48 FR 5118), the USEPA proposed to approve the CO SIP for the Cleveland urban area. This plan appeared to demonstrate attainment of the CO National Ambient Air Quality Standards (NAAQS) by December 31, 1982, at all monitoring sites in Cuyahoga County. After the publication of the February 3, 1983, notice of proposed rulemaking, USEPA noted that three exceedances of the right hour CO standard had occurred in March 1983, at the 8907 Carnegie Avenue monitoring site. The NAAQS for CO allows only one eight hour standard exceedance of the 10 milligrams per cubic meter (mg/m³) standard in a year. Therefore, it was apparent that a violation of the CO NAAQS had occurred in 1983 after the plan's demonstrated attainment deadline.

In telephone conversations with the State of Ohio in November 1983, USEPA discussed the issue of the observed CO standard violation. On December 5, 1983, the State forwarded a letter from the City of Cleveland explaining that the observed CO standard exceedances were probably due to a tire-fire near North Bloomfield, Ohio.

All three of the eight-hour CO standard exceedances [14.2 mg/m³, 11.8 mg/m³, and 11.3 mg/m³] observed in

March 1983, occurred over a three day span (from approximately March 2nd through March 4th). This period coincides with the period of intermittent tire-fires in North Bloomfield. The City of Cleveland recommended that the 1983 exceedances not be considered in future control analyses or as a justification for calling the Cleveland area nonattainment for CO because the tire-fire could be regarded as an unusual occurrence.

During telephone conversations between the State of Ohio and USEPA in December 1983, USEPA recommended that the State conduct dispersion modeling analyses to demonstrate that the tire-fire was the probable cause of the observed CO standard exceedances. USEPA observed that the distance (North Bloomfield is approximately 61 kilometers from the Carnegie Avenue monitoring site) between the tire-fire and the CO monitor was so great that one would not expect a significant impact on the monitored CO concentrations, even from a large fire.

In an effort to support a connection between the tire-fire and the monitored CO exceedances, the City of Cleveland performed two analyses as an alternative to the requested dispersion modeling analysis. First, complaints of odors on the days of the tire-fire were investigated and the location of odor complaints were plotted as an area map. The complaints appeared to fall in an area that one could describe as a large, wide plume pattern. The Carnegie Avenue monitoring site was located within, and near the edge of the plotted complaint/plume area. It was also noted that North Bloomfield fell near the center of the "upwind" (source) end of the plotted plume area.

The second analysis was of wind directions during the times of high CO concentrations. It was noted that the highest CO concentrations (in excess of 10 mg/m³) occurred when the wind directions recorded at the Cleveland Hopkins International Airport were from the east. As a result, the City of Cleveland believes this places the Carnegie Avenue site downwind of the tire-fire during the high CO concentration hours. The City further assumed that a persistent low level temperature inversion restricted pollutant dispersion resulting in significant pollutant impacts far downwind from the tire-fire. The City of Cleveland believes that the above results provide the necessary evidence that the tire-fire was the cause of the observed CO standard exceedances.

Even if USEPA were to accept the City of Cleveland's assertion that odors