37 CFR Parts 1, 5 and 10

[Docket No. 920779–3226]

RIN 0651–AA34

Miscellaneous Changes in Patent Practice; Correction

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The Patent and Trademark Office (Office) is correcting errors in the final rule which appeared in the **Federal Register** on Friday, October 22, 1993 (58 FR 54504). The regulations related to miscellaneous changes in patent practice contained in parts 1, 5 and 10.

EFFECTIVE DATE: January 3, 1994.

FOR FURTHER INFORMATION CONTACT: Abraham Hershkovitz by telephone at (703) 305–9282, or by facsimile transmission at (703) 305–8825, or by mail marked to his attention and addressed to: Office of the Assistant Commissioner for Patents, Box DAC, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections, make miscellaneous changes to the rules of practice in patent cases.

Need for Correction

As published, the final regulations contain errors, including the effective date, which may be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on October 22, 1993, of the final regulations (Docket No. 9207.79–3226), which were the subject of FR Doc. 93–25865, is corrected as follows:

1. On page 54504, in the second column, the Effective Date: should read "January 3, 1994."

2. On page 54505, first column, the second to last line of the first full paragraph, the "§ 029" should be removed.

Dated: November 29, 1993.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 93–29599 Filed 12–3–93; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI38–01–6031; FRL–4809–5]

Approval and Promulgation of Wisconsin Implementation Plan; Emission Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. EPA is approving a revision to Wisconsin's State Implementation Plan (SIP) submitted by the State of Wisconsin to implement an emission statement program for stationary sources throughout the State. The implementation plan was submitted by the State to satisfy the Federal requirements for an emission statement program in ozone nonattainment areas.

EFFECTIVE DATE: This action will be effective February 4, 1994, unless notice is received on or before January 5, 1994, that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision and U.S. EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Megan Beardsley at (312) 886–0669 before visiting the Region 5 Office.)

A copy of this Wisconsin section 182 SIP revision is available for inspection from Jerry Kurtzweg (ANR–443), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Megan Beardsley, Air Toxics and Radiation Branch, Regulation Development Section (AT–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6680.

SUPPLEMENTARY INFORMATION:

I. Background

The SIP requirements for ozone nonattainment areas are set out in subparts I and II of part D of title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 ("the Act").

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Paragraph 182(a) sets out requirements applicable in marginal nonattainment areas, which are also made applicable in paragraphs (b), (c), (d), and (e) to all other ozone nonattainment areas.

Paragraph 182(a)(3) requires that States implement rules that require stationary sources to submit to the State annual emission statements showing actual emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_x). These rules were to be submitted as a revision to the SIP by November 15, 1992. When Wisconsin failed to submit complete rules by this deadline, U.S. EPA began a sanctions process against the State. On July 2, 1993, Wisconsin submitted the current emission statement SIP revision. On August 4, 1993, U.S. EPA sent Wisconsin a letter notifying the State that this submittal was complete and that the completeness finding ended the sanctions process for the emission statement SIP revision.

II. Evaluation of State Submission

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing its SIP, of which the emission statement program will become a part. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) similarly provides that each revision to an implementation plan submitted by a State under the Act must have been adopted by such State after reasonable notice and public hearing.

The State of Wisconsin held public hearings on December 8, 10 and 11, 1992, to solicit public comment on the emission statement rule, "Air Contaminant Emission Inventory Reporting Requirements," chapter NR 438 of the Wisconsin Administrative Code. Following the public hearing, the rule was adopted by the State and became effective June 1, 1993. The rule was submitted to U.S. EPA on July 2, 1993, as a proposed revision to the SIP.

The proposed SIP revision was reviewed by the U.S. EPA to determine completeness shortly after its submittal, in accordance with the completeness the criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete, and a letter indicating the completeness of

[1] Also, section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

the submittal was sent to the governor's delegate on August 4, 1993.

B. Components of the Emission Statement Program

The U.S EPA has published a "General Preamble" describing the U.S. EPA's preliminary views on how the U.S. EPA intends to review SIP's and SIP revisions submitted under title I of the Act (see 57 FR 13498 (April 16, 1992) ("SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"), 57 FR 18070 (April 28, 1992) ("Appendices to the General Preamble"), and 57 FR 55620 (November 25, 1992) ("SIP: NO_x Supplement to the General Preamble")).

The U.S. EPA has also issued draft "Guidance on the Implementation of an Emission Statement Program" (July 1992). It should be noted that this guidance has not been finalized,[2] but does provide the best available guidance on the content and use of emission statements. Further revisions to this draft guidance were not available prior to final rulemaking on the Wisconsin SIP revision. Therefore, it is appropriate to use the July 1992 draft guidance in evaluating Wisconsin's emission statement submittal.

The draft guidance contains the following criteria for evaluating State emission statement programs.

1. Applicability

The State program must include provisions covering applicability of the regulations. The State may exempt individual sources emitting less than 25 tons per year of actual NO_x or VOC if the State provides an inventory of emissions from such class or category of sources, based on the use of emission factors established by the Administrator or other methods acceptable to the Administrator. However, if either NO_x or VOC is emitted at a rate equal to or greater than 25 tons per year, the source shall not be exempt.

Wisconsin's NR 438 is applicable to any person owning or operating a facility that emits an air contaminant is quantities above the minima listed in NR 438. In particular, sources must report annual, actual emissions of NO_x exceeding 5 tons per year (tpy) and annual, actual emissions of VOC exceeding 3 tpy.

2. Definitions

The State program must include definitions for key terms used in the regulations. Wisconsin's NR 438 includes specific definitions for "facility," and "source classification code." Other relevant definitions are established in NR 400, which is applicable to terms used in NR 400 to 499.

3. Compliance Schedule

The State program must include a compliance schedule for sources covered by the regulations. In particular, the State shall require sources emitting NO_x or VOC in ozone nonattainment areas to submit emission statement data before November 15, 1993, and annually thereafter. The U.S. EPA, however, strongly encourages a submittal date of April 15.

Wisconsin's regulation requires that sources report emissions by March 1 of each year. Beginning June 1993, sources must certify their emissions by June 30 of each year.

4. Source Information

When requesting an emission statement from sources of NO_x or VOC, the State shall require the following information from the source:

a. Source identification information;
b. Operating schedule;
c. Emissions information;
d. Control equipment information;
e. Process data; and
f. Certification of data accuracy.

Wisconsin fulfills the criteria for source information. In particular:

a. Source Identification. Wisconsin requires that sources reporting emissions provide their name, location, mailing address, and Standard Industrial Classification code, as well as additional information not addressed in the Federal guidance.

b. Operating Schedule. Wisconsin requires that sources provide their normal operating schedule in hours per day, days per week, days per year and percentage production per quarter.

c. Emissions Information. Wisconsin requires that facilities with emissions exceeding 5 tons per year of NO_x or 3 tons per year of VOC submit an emission inventory report of annual, actual emissions or supply sufficient information for Wisconsin Department of Natural Resources (WDNR) to calculate these emissions. Wisconsin also requires sources to report annual, actual emissions for several hundred other pollutants if emissions of these pollutants exceed the quantities listed in NR 438.

d. Control Equipment. Wisconsin requires that sources report control equipment and control equipment efficiency for the following types of emissions: Fugitive emissions, emissions from fuel combustion units, emissions from manufacturing processes, and emissions from incinerator equipment.

e. Process Data. Wisconsin requires process data for fuel combustion equipment, manufacturing processes equipment and incineration equipment. The WDNR will compute the peak ozone season daily process rate based on the reported percentage production per quarter for the third quarter (July, August and September).

f. Certification. Wisconsin requires that, by June 30 of each year, the owner or operator of a facility that emits VOC or NO_x in a nonattainment area or is required to obtain an air pollutant control permit shall send written certification to WDNR that the WDNR's summary of the facility's emissions is correct.

Wisconsin has developed a series of forms for the emission reporting and certification described above.

5. State Reporting

In addition to the required SIP revision, the U.S. EPA guidance requests that the State enter the source data elements into the Aerometric Information Retrieval System (AIRS) and provide U.S. EPA with quarterly emission statement status reports beginning July 1, 1993.

Wisconsin has submitted its first quarterly report and has agreed to continue submitting these reports. Wisconsin also has agreed to continue working to load its emission inventory information into the AIRS database.

C. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and the U.S. EPA. Wisconsin's emission statement rule includes a schedule for source submittal of emission statements and details the data to be included in the statements. Under NR 494 of the Wisconsin Administrative Code, "Enforcement and Penalties for Violation of Air Control Provisions," any person who violates NR 438 is subject to the penalties provided under § 144.426 of the Wisconsin Statute.

D. Conclusion

U.S. EPA has reviewed Wisconsin's emission requirements set forward in the Clean Air Act and in the guidance discussed above. Hence, the U.S. EPA approves the emission statement SIP revision submitted to the U.S. EPA by Wisconsin on July 2, 1993.

Because the U.S. EPA considers this action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on February 4, 1994. However,

[2] The EPA is presently conducting a rulemaking process to modify title 40 of the CFR to reflect the requirements of the emission statement program.

if we receive notice by January 5, 1994, that someone wishes to submit adverse comments, then U.S. EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The U.S. EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. The U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on the U.S. EPA's request. This request is still applicable under Executive Order 12866.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, U.S. EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, U.S. EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Approvals of SIP's under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids U.S. EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976)).

C. Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Emission statements, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Oxides of nitrogen, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 17, 1993.

Dale S. Bryson,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(70) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(70) On July 2, 1993, the State of Wisconsin submitted a requested revision to the Wisconsin State Implementation Plan (SIP) intended to satisfy the requirements of section 182 (a)(3)(B) of the Clean Air Act as amended in 1990. Included were State rules establishing procedures for stationary sources throughout the state to report annual emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) as well as other pollutants.

(i) *Incorporation by reference.* Wisconsin Administrative Code, Chapter NR 438, Air Contaminant Emission Reporting Requirements, published in the Wisconsin Register, May 1993, effective June 1, 1993.

[FR Doc. 93–29721 Filed 12–3–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA 15–1–6084; FRL–4801–4]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is finalizing the approval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on January 17, 1991. The revision concerns Ventura County Air Pollution Control District (VCAPCD) Rule 71.2, Storage of Reactive Organic Compound Liquids. This approval action will incorporate the rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from the storage of reactive organic compound (ROC) liquids. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on January 5, 1994.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section II (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Jerry Kurtzweg ANR 443, 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section II (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1991 in 56 FR 1754, EPA proposed to approve the following rule, among others, into the California SIP: VCAPCD Rule 71.2, Storage of Reactive Organic Compound Liquids. Rule 71.2 was adopted by VCAPCD on September 26, 1989, and submitted by the California Air Resources Board (CARB) to EPA on October 16, 1990. The rule was submitted in response to EPA's 1988 SIP Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for the above rule and nonattainment area is provided in the NPR cited above.

EPA has evaluated the above rule for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPR cited above. EPA has found that the rule meets the applicable EPA requirements. A detailed discussion of the rule provisions and evaluation has been provided in 56 FR 1754 and in a technical support document (TSD) available at EPA's Region IX office (TSD dated October 24, 1990).

Response to Public Comments

A 30-day public comment period was provided in 56 FR 1754. EPA did not receive any comments on Rule 71.2.

EPA Action

EPA is finalizing action to approve VCAPCD Rule 71.2 for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and part D of the CAA. This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of VOCs in accordance with the requirements of the CAA.

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

Regulatory Process

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The Office of Management and Budget (OMB) has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

Approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on anysmall entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a) (2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: October 25, 1993.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(181) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(181) New and amended regulations for the following APCD were submitted on October 16, 1990, by the Governor's designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(*1*) Rule 71.2, adopted on September 26, 1989.

* * * * *

[FR Doc. 93–29719 Filed 12–3–93; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Parts 52 and 60

[MT18–1–5871; FRL–4789–7]

Approval and Promulgation of Implementation Plans; Montana; Visibility Models, Standards of Performance for New Stationary Sources, and National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In this action, EPA is approving revisions to the Montana State Implementation Plan (SIP), which were submitted by the Governor of Montana on March 1, 1993. Revisions

were made to the State's regulations for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) to incorporate new and revised federal regulations promulgated between July 1, 1990 and July 1, 1992. In addition, the State amended its visibility modeling requirements to incorporate EPA's current guidance document for visibility modeling. These revisions are being approved because they provide for consistency with federal regulations.

EFFECTIVE DATE: This action will become effective on February 4, 1994, unless notice is received by January 5, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revisions are available for public inspection between 8 a.m. and 4 p.m. Monday through Friday at the following locations:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, suite 500, Denver, Colorado 80202–2466;

Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana 59620;

Jerry Kurtzweg, ANR 443, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, Environmental Protection Agency, Region VIII, Air Programs Branch, suite 500, Denver, Colorado 80202–2466, (303) 293–1765.

SUPPLEMENTARY INFORMATION: On March 1, 1993, the Governor of Montana requested approval of revisions to the Montana SIP. The revisions consisted of amendments to the Administrative Rules of Montana (ARM), sections 16.8.1004 (Visibility Models), 16.8.1423 (NSPS), and 16.8.1424 (NESHAPs).

The revisions to ARM 16.8.1004 update the State's modeling requirements for visibility to incorporate EPA's current visibility modeling guideline entitled "Plume Visual Impact Screening and Analysis" (EPA–450/4–88–015, 1988).

The amendments to ARM 16.8.1423 and 16.8.1424 update the State's NSPS and NESHAPs regulations to incorporate new and revised federal regulations promulgated between July 1, 1990 and July 1, 1992. Three new federal NSPS were added between 1990 and 1992: Subpart Dc (Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units), Subpart Ea (Standards of Performance for Municipal Waste Combustors), and Subpart DDD (Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry). Other revisions were made to existing standards in 40 CFR parts 60 and 61, which the State has also incorporated. In addition, the State has added a definition for "administrator" in its NSPS and NESHAP regulations to clarify that the term "administrator" means the Montana Department of Health and Environmental Sciences except for those authorities which cannot be delegated to the State, in which case "administrator" means the Administrator of EPA.

On May 10, 1993, EPA notified the State that the SIP submittal was administratively and technically complete, and that the submittal would be approved. In this notice, EPA is approving the State's revisions to the SIP, providing the State with authority to implement and enforce the federal NSPS in 40 CFR part 60 and the federal NESHAPs in 40 CFR part 61, as in effect on July 1, 1992, with the exception of 40 CFR part 61, subparts B, H, I, K, T, and W, which pertain to radionuclides.

EPA is updating the table of NSPS authority in 40 CFR 60.04(c) to reflect the three new NSPS that the State now has authority for implementing and enforcing. EPA is not revising the table of NESHAPs authority in 40 CFR 61.04(c), since no new federal NESHAPs (excluding those pertaining to radionuclides) were promulgated between 1990 and 1992.

Final Action

EPA is approving the revisions to ARM 16.8.1004 (Visibility Models), ARM 16.8.1423 (NSPS), and ARM 16.8.1424 (NESHAPs), which were submitted by the Governor for SIP approval on March 1, 1993. This action provides the State with the authority for implementation and enforcement of all federal NSPS and NESHAPs (except 40 CFR part 61, subparts B, H, I, K, Q, R, T, and W, pertaining to radionuclides) promulgated as of July 1, 1992. However, the State's NSPS and NESHAP authorities do not include those authorities which cannot be delegated to the states, as defined in 40 CFR parts 60 and 61. In addition, this action amends the State's modeling requirements for visibility impacts to require adherence to EPA's current visibility modeling guidelines.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions' concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C 7410(a)(2).

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 1994. Filing a petition for reconsideration by the Administrator does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

Dated: October 1, 1993.

Jack W. McGraw,

Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(28) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(28) On August 20, 1991, the Governor of Montana submitted revisions to the plan for visibility models, new source performance standards, and national emission standards for hazardous air pollutants.

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of Montana 16.8.1004, Visibility Models, 16.8.1423, Standards of Performance for New Stationary Sources, and 16.8.1424, Emission Standards for Hazardous Air Pollutants effective December 25, 1992.

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Public Law 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. Section 60.4(c) is amended by revising the table to read as follows:

§ 60.4 Address.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS

[(NSPS) for Region VIII]

Subpart	State					
	CO	MT [1]	ND [1]	SD [1]	UT [1]	WY
A General Provisions	(*)	(*)	(*)	(*)	(*)	(*)
D Fossil Fueled Fired Steam Generators	(*)	(*)	(*)	(*)	(*)	(*)
Da Electric Utility Steam Generators	(*)	(*)	(*)	(*)	(*)	(*)
Db Industrial-Commercial-Institutional Steam Generators	(*)	(*)	(*)	(*)	(*)	(*)
Dc Industrial-Commercial-Institutional Steam Generators	....	(*)	(*)	....	(*)	(*)
E Incinerators	(*)	(*)	(*)	(*)	(*)	(*)
Ea Municipal Waste Combustors	....	(*)	(*)	(*)	(*)	(*)
F Portland Cement Plants	(*)	(*)	(*)	(*)	(*)	(*)
G Nitric Acid Plants	(*)	(*)	(*)	....	(*)	(*)
H Sulfuric Acid Plants	(*)	(*)	(*)	....	(*)	(*)
I Asphalt Concrete Plants	(*)	(*)	(*)	(*)	(*)	(*)
J Petroleum Refineries	(*)	(*)	(*)	....	(*)	(*)
K Petroleum Storage Vessels (6/11/73–5/19/78)	(*)	(*)	(*)	(*)	(*)	(*)
Ka Petroleum Storage Vessels (5/18/78–7/23/84)	(*)	(*)	(*)	(*)	(*)	(*)
Kb Petroleum Storage Vessels (after 7/23/84)	....	(*)	(*)	(*)	(*)	(*)
L Secondary Lead Smelters	(*)	(*)	(*)	....	(*)	(*)
M Secondary Brass & Bronze Production Plants	(*)	(*)	(*)	....	(*)	(*)
N Primary Emissions from Basic Oxygen Process Furnaces (after 6/11/73)	(*)	(*)	(*)	....	(*)	(*)
Na Secondary Emissions from Basic Oxygen Process Furnaces (after 1/20/83)	(*)	(*)	(*)	....	(*)	(*)
O Sewage Treatment Plants	(*)	(*)	(*)	(*)	(*)	(*)
P Primary Copper Smelters	(*)	(*)	(*)	....	(*)	(*)
Q Primary Zinc Smelters	(*)	(*)	(*)	....	(*)	(*)
R Primary Lead Smelter	(*)	(*)	(*)	....	(*)	(*)
S Primary Aluminum Reduction Plants	(*)	(*)	(*)	....	(*)	(*)
T Phosphate Fertilizer Industry: Wet Process Phosphoric Plants	(*)	(*)	(*)	....	(*)	(*)
U Phosphate Fertilizer Industry: Superphosphoric Acid Plants	(*)	(*)	(*)	....	(*)	(*)
V Phosphate Fertilizer Industry: Diammonium Phosphate Plants	(*)	(*)	(*)	....	(*)	(*)
W Phosphate Fertilizer Industry: Triple Superphosphate Plants	(*)	(*)	(*)	....	(*)	(*)
X Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	(*)	(*)	(*)	....	(*)	(*)
Y Coal Preparation Plants	(*)	(*)	(*)	(*)	(*)	(*)
Z Ferroalloy Production Facilities	(*)	(*)	(*)	....	(*)	(*)
AA Steel Plants: Electric Arc Furnaces (10/21/74—8/17/83)	(*)	(*)	(*)	....	(*)	(*)

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS—Continued
[(NSPS) for Region VIII]

Subpart	State					
	CO	MT [1]	ND [1]	SD [1]	UT [1]	WY
AAa Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels (after 8/7/83)		(*)	(*)		(*)	(*)
BB Kraft Pulp Mills	(*)	(*)	(*)		(*)	(*)
CC Glass Manufacturing Plants	(*)	(*)	(*)		(*)	(*)
DD Grain Elevators	(*)	(*)	(*)	(*)	(*)	(*)
EE Surface Coating of Metal Furniture	(*)	(*)	(*)		(*)	(*)
GG Stationary Gas Turbines	(*)	(*)	(*)	(*)	(*)	(*)
HH Lime Manufacturing Plants	(*)	(*)	(*)	(*)	(*)	(*)
KK Lead Acid Battery Plants	(*)	(*)	(*)		(*)	(*)
LL Metallic Mineral Processing Plants	(*)	(*)	(*)	(*)	(*)	(*)
MM Automobile & Light Duty Truck Surface Coating Operations	(*)	(*)	(*)		(*)	(*)
NN Phosphate Rock Plants	(*)	(*)	(*)		(*)	(*)
PP Ammonium Sulfate Manufacturing	(*)	(*)	(*)		(*)	(*)
QQ Graphic Arts Industry: Publication Rotogravure Printing	(*)	(*)	(*)		(*)	(*)
RR Pressure Sensitive Tape & Label Surface Coating	(*)	(*)	(*)		(*)	(*)
SS Industrial Surface Coating: Large Appliances	(*)	(*)	(*)		(*)	(*)
TT Metal Coil Surface Coating	(*)	(*)	(*)		(*)	(*)
UU Asphalt Processing & Asphalt Roofing Manufacture	(*)	(*)	(*)		(*)	(*)
VV Synthetic Organic Chemicals Manufacturing: Equipment Leaks of VOC	(*)	(*)	(*)		(*)	(*)
WW Beverage Can Surface Coating Industry	(*)	(*)	(*)		(*)	(*)
XX Bulk Gasoline Terminals	(*)	(*)	(*)		(*)	(*)
AAA Residential Wood Heaters		(*)	(*)		(*)	(*)
BBB Rubber Tires		(*)	(*)		(*)	(*)
DDD VOC Emissions from Polymer Manufacturing Industry		(*)			(*)	(*)
FFF Flexible Vinyl & Urethane Coating & Printing	(*)	(*)	(*)		(*)	(*)
GGG Equipment Leaks of VOC in Petroleum Refineries	(*)	(*)	(*)		(*)	(*)
HHH Synthetic Fiber Production	(*)	(*)	(*)		(*)	(*)
III VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Air Oxidation Unit Processes		(*)	(*)		(*)	(*)
JJJ Petroleum Dry Cleaners	(*)	(*)	(*)		(*)	(*)
KKK Equipment Leaks of VOC from Onshore Natural Gas Processing Plants	(*)	(*)	(*)		(*)	(*)
LLL Onshore Natural Gas Processing: SO2 Emissions	(*)	(*)	(*)		(*)	(*)
NNN VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Distillation Operations		(*)	(*)		(*)	(*)
OOO Nonmetallic Mineral Processing Plants	(*)	(*)	(*)	(*)	(*)	(*)
PPP Wool Fiberglass Insulation Manufacturing Plants	(*)	(*)	(*)		(*)	(*)
QQQ VOC Emissions from Petroleum Refinery Wastewater Systems		(*)	(*)		(*)	(*)
SSS Magnetic Tape Industry		(*)	(*)		(*)	(*)
TTT Plastic Parts for Business Machine Coatings		(*)	(*)		(*)	(*)
VVV Polymeric Coating of Supporting Substrates		(*)	(*)		(*)	(*)

[1] Indicates approval of New Source Performance Standards as part of the State Implementation Plan (SIP).
(*) Indicates approval of state regulation.

[FR Doc. 93-29722 Filed 12-3-93; 8:45 am]
BILLING CODE 6560-50-P

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40 CFR Parts 52 and 81

[OR-30-1-5852; FRL-4794-2]

Approval and Promulgation of Designation of Areas for Air Quality Planning Purposes; Oregon

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On July 28, 1989, the state of Oregon through the Oregon Department of Environmental Quality submitted a maintenance plan and a request to redesignate Eugene-Springfield to attainment for carbon monoxide (CO). The state has met the applicable requirements for redesignation contained in the Clean Air Act, as amended in 1990 (CAA). EPA approves the maintenance plan and the redesignation of Eugene-Springfield, Oregon, to attainment for CO.

EFFECTIVE DATE: This action will become effective on February 4, 1994, unless notice is received by January 5, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, Air Programs and Development Section, Air and Radiation Branch (AT-082), United States Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at: Air Programs Branch (OR-30-1-5852), Environmental Protection Agency, 1200 6th Avenue, AT-082, Seattle, Washington 98101, and Oregon Department of Environmental Quality, 811 SW. 6th Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Air and Radiation Branch, Air Programs and Development Section (AT-082), U.S. Environmental Protection Agency, Region 10, Seattle, Washington 98101, (206) 553-1814.

SUPPLEMENTARY INFORMATION:

I. Background

Under the pre-amended Clean Air Act the Eugene-Springfield Air Quality Maintenance Area (AQMA) was designated nonattainment. 43 FR 9029 (March 3, 1978). Pursuant to the Act as amended in 1990, the Eugene-Springfield AQMA retained its designation of nonattainment for CO and was not classified. 56 FR 56694 (Nov. 6, 1991) codified at 40 CFR 81.338. On July 28, 1989, the state of Oregon submitted to the Environmental Protection Agency (EPA) a maintenance plan and a redesignation request for the Eugene-Springfield CO AQMA, prior to the enactment of the 1990 Clean Air Act Amendments (CAAA). The public hearing was held on September 13, 1988, and Oregon's Environmental Quality Commission adopted the plan on December 9, 1988.

The Agency has reviewed this request for redesignation to determine whether it meets the requirements of the amended CAA, particularly a new requirement that the state develop a maintenance plan to provide for maintenance of the National Ambient Air Quality Standard (NAAQS) for CO for at least 10 years after the redesignation. On July 14, 1993, the Lane Regional Air Pollution Authority (LRAPA) submitted a maintenance plan and additional information that addressed the above requirement and in a letter dated February 27, 1992, LRAPA committed to submit to EPA a contingency plan for attaining the standard if a violation of the CO NAAQS occurs. EPA has determined that the state's demonstration of attainment 10 years after redesignation and its commitment to correct any violation after redesignation are sufficient to satisfy the amended CAA requirement of a maintenance plan.

Since 1971, LRAPA has maintained a continuous monitoring site for CO at Lane Community College in the central business district in downtown Eugene. It was data from this site that led to a nonattainment designation for the entire Eugene-Springfield AQMA under part D of the 1977 CAA. A monitoring study performed by LRAPA in the winter of 1983–1984 demonstrated that the area exceeding the standard is confined to downtown Eugene. The same study concluded that the permanent monitoring site in downtown Eugene adequately represents the CO peak levels in the Eugene-Springfield AQMA and is a suitable indicator of CO attainment status.

Ambient air quality data for the period 1981 through 1992 show that the Eugene-Springfield CO nonattainment area has attained the NAAQS for CO. Therefore, in accordance with the amended Act, the state of Oregon has submitted a CO maintenance plan which projects continued attainment of the CO standard in the Eugene-Springfield Air Quality Maintenance Area (AQMA), and has requested redesignation of the area to attainment for the CO NAAQS. EPA is approving the Eugene-Springfield maintenance plan as a revision to the Air Pollution Control State Implementation Plan (SIP) for the state of Oregon. In conjunction with the maintenance plan, EPA is also approving Oregon's request to redesignate the Eugene-Springfield area to attainment with respect to the CO NAAQS.

II. Evaluation Criteria

Section 107(d)(3)(E) of the amended Act establishes five requirements that must be met in order to redesignate an area from nonattainment to attainment. The Eugene-Springfield redesignation request demonstrates that the area has fulfilled the applicable requirements of the amended Act under section 107(d)(3)(E). The requirements and an analysis of the state submittal under those requirements are set forth below.

A. The Administrator Has Determined That the Area Has Attained the National Ambient Air Quality Standard (Section 107(d)(3)(E)(i))

Ambient monitoring data for 1981 through 1992 show attainment of the CO NAAQS in the Eugene-Springfield area, i.e., less than or equal to one exceedance of the CO NAAQS (9.0 ppm) per year over a two year period. See 40 CFR 50.8. Subsequent to the last violation recorded in 1980, Eugene-Springfield has had 12 years of data with no recorded violation of the CO NAAQS. Therefore, EPA has determined that the NAAQS in Eugene-Springfield have been attained.

B. The Administrator Has Fully Approved the Applicable Implementation Plan for the Area as Meeting the Requirements of Section 110 and Part D (Section 107(d)(3)(E)(ii), Section 107(d)(3)(E)(v))

Oregon had a fully approved SIP for Eugene-Springfield which meets the requirements of sections 110(a)(2), 110(k) and part D of the 1977 Act. (45 FR 42265) The amended Act, however, modified section 110(a)(2) and, under part D, revised section 172 and added new requirements for nonattainment areas.

For purposes of redesignation, the SIP must contain all applicable requirements under the amended Act. EPA has reviewed the SIP to ensure that it contains all measures that were due under the amended Act prior to or at the time the state submitted its redesignation request.

1. Section 110 Requirements

Although section 110 was revised by the CAA amendments, the Eugene-Springfield SIP meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. As to those requirements that were amended, many are duplicative of other requirements of the Act. EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2).

2. Part D Requirements

Before Eugene-Springfield may be redesignated to attainment, it also must fulfill the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirement applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 3 of part D establishes additional requirements for CO nonattainment areas classified under section 186(a).

Since the Eugene-Springfield area is designated as a not classified CO nonattainment area under the amended Act, the requirements of part D, subpart 3 are not applicable. However, in order to be redesignated to attainment, the state must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176.

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment. EPA has not determined that these requirements were applicable to CO nonattainment areas on or before the date that Oregon submitted a complete redesignation request for the Eugene-Springfield nonattainment area. Therefore, these requirements were not applicable for purposes of EPA's consideration of this redesignation request.

Section 176 of the Act requires states to develop transportation/air quality conformity procedures which are consistent with Federal conformity regulations and to submit these procedures as a SIP revision by November 15, 1992. EPA has not promulgated final conformity regulations; however, in a letter dated July 14, 1993, Oregon committed to develop conformity procedures consistent with the final federal regulations and will submit, if necessary, an appropriate SIP revision according to the schedule set forth in the regulations.

C. The Administrator Determines That the Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the Applicable Implementation Plan and Applicable Federal Air Pollutant Control Regulation and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

Under the pre-amended Act, EPA approved the 1979 Oregon SIP control strategy for the Eugene-Springfield nonattainment area. Eugene-Springfield's SIP stated that the area would be in attainment by 1987, merely by relying on the Federal Motor Vehicle Emission Control Program. EPA is satisfied that the Federal Motor Vehicle Emission Control Program measures are enforceable and have resulted in the reductions that have allowed the area to attain the NAAQS. Moreover, the evidence indicates that this control strategy is sufficient to maintain the standard.

D. The Administrator Has Fully Approved a Maintenance Plan for the Area as Meeting the Requirements of Section 175A (Section 107(d)(3)(E)(iv))

Section 175A of the Act sets forth the maintenance plan requirement for areas requesting redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the area is redesignated. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the next ten years following the initial ten-year period. To provide for the possibility for future NAAQS violations, the maintenance plan must contain contingency measures adequate to assure prompt correction of the air quality problem.

1. Emissions Inventory

A study performed by LRAPA during 1985 indicated there were two hot spot locations near downtown which were concluded to be isolated microscale problem areas. The two intersections (7th and Jefferson, and 13th and Hilyard) were identified in this report as hotspots and each was the result of occasional severe traffic congestion, in and around the intersections. Due to the nature of Eugene's CO violations, (i.e., hot spots only) LRAPA's emission inventory contains only on-road mobile and home wood heating emissions within the Central Area Transportation Study boundary. All point sources within the Eugene AQMA are located at a sufficient distance away as to not contribute significantly to the violations. The emission inventory requirement was fulfilled by using EPA's Mobile 3.1 model for emission factors and TRANSYT-7F model for vehicle miles traveled (VMT) and projected speeds. The base year 1985 was used for the attainment emission inventory. The emission estimates for home wood heating devices were derived from a 1987 LRAPA survey within the Eugene-Springfield Urban Growth Boundary.

2. Demonstration of Continued Attainment

A letter dated July 14, 1993, sent from the Director of LRAPA projected emissions from home wood heating devices and on-road vehicles to the year 2007. The projections show that the CO standard will be maintained.

The home wood heating CO emission estimates decreased from 1,348 tons/year in 1990 (as projected by the 1987 LRAPA survey) to 462 tons/year in the year 2007 (as projected by the 1992 LRAPA survey). The future year emissions are based upon projected population increases and continued replacement of conventional woodstoves with certified woodstoves through attrition.

The transportation CO emission estimates decreased from 6,021 tons/year in 1990 (as projected by using EPA's Mobile 3.1 model) to 2,164 tons/year in the year 2007 (as projected by using EPA's Mobile 4.1 model and estimated VMT from the City of Eugene Department of Public Works). Mobile 3.1 and Mobile 4.1 were the applicable models in use at the time the analyses were initiated.

3. Verification of Continued Attainment

Continued attainment of the CO NAAQS in Eugene-Springfield depends, in part, on the state's efforts toward tracking indicators of continued attainment during the maintenance period. The plan will be reviewed annually, making necessary changes to ensure that ambient air quality standards will not be violated. In addition, LRAPA will continue to monitor for CO at the designated monitoring site and will conduct periodic short-duration monitoring studies to ensure continued attainment.

4. Contingency Plan

Despite LRAPA's best efforts to demonstrate continued compliance with the NAAQS in Eugene-Springfield, the area may exceed or violate the NAAQS. Therefore, the LRAPA has submitted a contingency plan (February 27, 1992 letter) providing what actions the area will need to take if the CO standard is violated. The contingency plan provides that in the event of any measured violation of the CO standard, LRAPA and Lane City of Governments will submit within 60 days of notice of the violation a contingency plan for attaining the standard, which will be implemented as expeditiously as practicable.

Because EPA received the state's request to redesignate prior to enactment of the amended Act, the state's commitment to correct any violation after redesignation is sufficient to satisfy the new 1990 amended CAA requirement of the maintenance plan.

5. Commitment to Submit Subsequent Maintenance Plan Revisions

In accordance with section 175A of the Act, the state will submit a revised maintenance SIP eight years after the area is redesignated to attainment. The revised SIP will provide for maintenance for an additional ten years.

III. Conclusion

EPA, in this action, is redesignating Eugene-Springfield to attainment for carbon monoxide. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no adverse comments on this action. The public should be advised that this action will be effective February 4, 1994. However, if notice is received by January 5, 1994, that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action, another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

For further information, the reader may consult the Technical Support Document. This is available at the EPA address given previously.

IV. Administrative Review

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12281 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities (5 U.S.C. 605(b)). Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on affected small entities. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct.1976); 42 U.S.C. 7410(a)(2).

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

CO SIPs are designed to satisfy the requirements of part D of the Clean Air Act and to provide for attainment and maintenance of the CO NAAQS. This redesignation today should not be interpreted as authorizing the state to delete, alter, or rescind any of the CO control strategies contained in the approved CO SIP. Changes to the Eugene-Springfield SIP CO regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation (section 173(b) of the Clean Air Act) and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the Clean Air Act.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 42 U.S.C. 7607(b)(2).)

List of Subjects

40 CFR Part 52

Envrironmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: October 19, 1993.

Gerald A. Emison,

Acting Regional Administrator.

Title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(101) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(101) On July 28, 1989, the state of Oregon, through the Oregon Department of Environmental Quality, submitted a maintenance plan and a request to redesignate Eugene-Springfield to attainment for carbon monoxide (CO).

(i) Incorporation by reference.

(A) July 28, 1989 letter from Oregon Department of Environmental Quality to EPA Region 10 submitting a maintenance plan and a redesignation request for the Eugene-Springfield CO Air Quality Maintenance Area (AQMA). This plan was submitted as an amendment to the State of Oregon Implementation Plan and adopted by the Oregon Department of Environmental Quality Commission on December 9, 1988.

(B) Attainment Demonstration and Maintenance Plan for the Eugene-Springfield AQMA for CO.

(C) Letter from Lane Regional Air Pollution Authority and Lane Council of Governments, dated February 27, 1992, to EPA Region 10, committing to submit a contingency plan if a violation of the CO NAAQS occurs.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.338 is amended in the table for "Oregon-Carbon Monoxide" by revising the entry for "Eugene-Springfield area, Lane Co (part)" to read as follows:

§ 81.338 Oregon.

* * * * *

OREGON—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
* * * *	*	*	*	
Eugene-Springfield Area Lane County (part)	January 5, 1994.	Attainment.	January 5, 1994.	

OREGON—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
The Eugene-Springfield Area is described as: The area within the bounds beginning at the Northwest corner of T17S, R4W; extending South to the Southwest corner of Section 6, T17S, R4W; thence East to the Northwest corner of Section 8, T17S, R4W; thence South to the Southwest corner of Section 32, T17S, R4W; thence East to the Northeast corner of Section 4, T18S, R4W; thence South to the Southwest corner of Section 3, T18S, R4W; thence East to the Northwest corner Section 12, T18S, R4W; thence South to the Southwest corner of Section 13, T18S, R4W; thence East to the Northeast corner of Section 24, T18S, R4W; thence South to the Southeast corner of Section 24, T18S, R4W; thence East to the Northeast corner of Section 21, T18S, R3W; thence North to the Northeast corner of Section 21, T18S, R3W; thence East to the Northeast corner of Section 22, T18S, R3W; thence South to the Southwest corner of Section 23, T18S, R3W; thence East to the Southeast corner of Section 24, T18S, R3W; thence North to the Southeast corner of Section 1, T18S, R3W; thence East to the Southeast corner of Section 2, T18S, R2W; thence North to the Northeast corner of Section 26, T17S, R2W; thence West to the Southwest corner of Section 20, T17S, R2W; thence North to the Northwest corner of Section 20, T17S, R2W; thence West to the Southwest corner of Section 13, T17S, R3W; thence North to the Northwest corner of Section 13, T17S, R3W; thence West to the Southwest corner of Section 11, T17S, R3W; thence North to the Northwest corner of Section 11, T17S, R3W; thence West to the Southwest corner of Section 6, T17S, R3W; thence North to the Northwest corner of Section 31, T16S, R3W; thence West to the Northwest corner of Section 34, T16S, R4W; thence South to the Southwest corner of Section 34, T16S, R4W; thence West to the point of beginning.				

* * * * * * *

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 93-29720 Filed 12-3-93; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7013

[OR-943-4210-06; GP3-416; OR-48184 (WASH)]

Withdrawal of Public Lands for the San Juan Archipelago; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 593.06 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the natural and recreational values on seven tracts of land located in the San Juan Archipelago. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: December 6, 1993.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon/ Washington State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-280-7162.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect seven natural and recreational sites in the San Juan Islands:

Willamette Meridian

Tract A, Patos and Little Patos Islands

T. 38 N., R. 2 W., unsurveyed,
Secs. 15, 16, and 17, Little Patos Island and Patos Island except the west 5 acres of Patos Island which contains the Patos Island Light Station.

Tract B, Turn Point on Stuart Island

T. 37 N., R. 4 W.,
Sec. 20, lots 5, 6, and 7 except the west 0.9 acre of lot 7 which contains the Turn Point Light Station.

Tract C, Kellet Bluff on Henry Island

T. 36 N., R. 4 W.,
Sec. 28, lots 3 and 4 except the 1.3 acres of lot 3 which contains the Kellet Bluff Light Station.

Tract D, Iceberg Point on Lopez Island

T. 34 N., R. 2 W.,
Sec. 23, lot 4;
Sec. 24, lots 6 and 7.

Tract E, Point Colville on Lopez Island

T. 34 N., R. 1 W.,
Sec. 21, lot 6.

Tract F, Iceberg South on Lopez Island

T. 34 N., R. 2 W.,
Sec. 25, lots 1 and 2.

Tract G, Chadwick Hill on Lopez Island

T. 34 N., R. 1 W.,
Sec. 16, NE¼SW¼ and S½SW¼.

The areas described aggregate approximately 593.06 acres in San Juan County, Washington.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: November 19, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

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