

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS
AFFAIRS

38 CFR Part 21

RIN 2900-AF34

Veterans Education; Implementation of
Legislation Affecting the Post-Vietnam
Era Veterans' Educational Assistance
ProgramAGENCY: Department of Defense and
Department of Veterans Affairs.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published Monday, June 7, 1993 (58 FR 31910). The regulations implemented provisions of the Act to amend title 38, United States Code, which was enacted on March 31, 1991.

EFFECTIVE DATE: April 1, 1991.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202-233-2092.

SUPPLEMENTARY INFORMATION:

Background

The final regulations which are the subject of these corrections implemented provisions of Public Law 102-16 which apply to the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). Chief among these was one which included flight training in this program.

Need for Correction

As published the regulations contain incorrect references to other regulations. These may prove to be misleading and need to be corrected.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

PART 21—VOCATIONAL
REHABILITATION AND EDUCATIONSubpart G—Post-Vietnam Era
Veterans' Educational Assistance
Under 38 U.S.C. Chapter 32

1. The authority citation for part 21, subpart G continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In § 21.5072(h)(1) in the first sentence the phrase
“§ 21.5138(a)(4)(viii)” is revised to read
“§ 21.5138(a)(5)(viii)”.

3. In § 21.5072(h)(2) in the second sentence the phrase
“§ 21.5138(a)(4)(viii)” is revised to read
“§ 21.5138(a)(5)(viii)”

Approved: June 21, 1993.

Marjorie M. Leandri,
Chief, Records, Reports, and Regulations
Division.

[FR Doc. 93-15105 Filed 6-25-93; 8:45 am]

BILLING CODE 8320-01-U

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 52

[WV8-1-5680; A-1-FRL-4653-9]

Approval and Promulgation of Air
Quality Implementation Plans; West
Virginia; Particulate Matter (PM-10);
Group III Areas State Implementation
Plan

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision establishes and requires the implementation of primary and secondary particulate matter standards consistent with the national ambient air quality standards (NAAQS) for particulate matter (PM-10). The intended effect of this action is to approve three (3) regulations, amended by West Virginia in order to conform with the requirements established for Group III areas for PM-10 published in the Federal Register on July 1, 1987. This action is being taken under Section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective August 27, 1993, unless notice is received by July 28, 1993, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building,

Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and West Virginia Department of Commerce, Labor, and Environmental Resources Department of Environmental Protection Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT:

David J. Campbell, (215) 597-9781.

SUPPLEMENTARY INFORMATION: On August 15, 1990, the West Virginia Department of Commerce, Labor, and Environmental Resources submitted to EPA a revision to the West Virginia State Implementation Plan (SIP) to achieve and maintain the national ambient air quality standards (NAAQS) for particulate matter (PM-10). The revision consists of: (1) An amended Regulation VII—“Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter”; (2) An amended Regulation XI—“Prevention of Air Pollution Emergency Episodes”; and (3) An amended Regulation XIV—“Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration”.

August 15, 1990 submittal is consistent with the SIP revision requirements as detailed in the July 1, 1987 Federal Register notice (52 FR 24672). The amended West Virginia regulations are consistent with the NAAQS for PM-10, and specify:

- PM-10 as an indicator of particulate matter.
- Exceedance levels.
- Reference methods for measurement of PM-10.
- Emergency episode plan revisions to include PM-10.
- Prevention of Significant Deterioration (PSD) regulation standards for both PM-10 and Total Suspended Particulate (TSP), with standards for emission rates and significant monitoring concentrations.

Summary of SIP Revision

On July 1, 1987, EPA promulgated national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) (52 FR 24634). The PM-10 standards replace the total suspended particulate (TSP) standards promulgated by EPA in 1971. Also on July 1, 1987, EPA promulgated changes to the policies and regulations by which it will implement the NAAQS for PM-10 in 40 CFR Parts 51 and 52 (52 FR 24672).

Using the classification criteria established at 52 FR 24672, EPA has

preliminarily designated areas within each state as Group I, II, or III based upon an area's probability of attaining the PM-10 standard. The July 1, 1987 Federal Register notice requires State Implementation Plan (SIP) revisions for all classified Group I, II, and III areas and indicates the SIP revision requirements for each classification.

On August 7, 1987, the State of West Virginia was classified at 52 FR 29383 as follows:

Group I—

Brooke County—Follansbee Area

Group II—

Hancock County

Remainder of Brooke County not in

Group I

Group III—

All other Areas not classified as

Group I or Group II.

The Clean Air Act, as subsequently amended in 1990 ("the Act"), affects these classifications, and the associated requirements, in a number of ways. First, the Group I area identified as the "Follansbee Area" was classified as a "moderate" nonattainment area for PM-10 by operation of law according to amended section 107(d)(4)(B)(i) of the Act. As a result of this nonattainment designation, the State of West Virginia was required to submit to EPA a SIP revision and attainment demonstration for the Follansbee Area by November 15, 1991 pursuant to amended section 189(a)(2)(A) of the Act. West Virginia submitted the required SIP revision and attainment demonstration to EPA on November 15, 1991 and the submittal is currently being considered under a separate rulemaking. The requirements of the amended Act superseded those established for Group I areas in the Federal Register on July 1, 1987.

The amended Act also eliminated the need for states to seek approval of "committal" SIP revisions for Group II areas as prescribed in the July 1, 1987 Federal Register notice. The Group II areas are to be addressed using the authorities established in section 107 of the Act concerning the classification of areas as attainment or nonattainment with regard to the NAAQS. On September 22, 1992, a portion of Hancock and Brooke Counties, West Virginia, namely the City of Weirton, was proposed to be classified as a "moderate" nonattainment area for PM-10 under amended section 107 of the Act (57 FR 43846). This represents the Group II area identified above. If this area is designated as nonattainment under a final rulemaking action, the State of West Virginia will be required to submit to EPA a SIP revision and attainment demonstration for the

nonattainment area within 18 months of the final designation to nonattainment. Therefore, the Act also supersedes the Group II requirements.

The Act did not affect the requirements established for Group III areas. The July 1, 1987 Federal Register notice requires states to seek approval of SIP revisions as required under the preconstruction review program and to codify other minor regulatory changes as needed. In the July 1, 1987 Federal Register notice, it is presumed that the existing West Virginia SIP is adequate to demonstrate attainment and maintenance of the NAAQS for PM-10 in all Group III areas in the State. On August 15, 1990, the State of West Virginia responded to the July 1, 1987 Federal Register by submitting three (3) regulations amended to reflect the revised particulate matter standards as a SIP revision. This SIP revision addresses Group III areas only.

EPA Evaluation

EPA has evaluated West Virginia's SIP revision request and concluded the following: (1) The amended regulations conform with the revised primary and secondary NAAQS for PM-10; (2) the amended regulations are clearly enforceable; and (3) the applicable requirements of 40 CFR Part 51 have been met. A more detailed evaluation is provided in the Technical Support Document available upon request from the regional EPA office listed in the ADDRESSES section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on August 27, 1993.

Final Action

EPA is approving the three (3) regulations submitted by the West Virginia Department of Commerce, Labor, and Environmental Resources as a revision to the West Virginia SIP. EPA's review of this material indicates that it conforms to the requirements of

40 CFR parts 51 and 52, and to the July 1, 1987 promulgation of NAAQS for PM-10 in the Federal Register.

The Agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

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

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

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

This SIP revision establishing revised particulate matter standards in West Virginia has been classified as a Table 3 action for signature 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 3 SIP revisions. OMB has agreed to continue that temporary waiver until such time as it rules on EPA's request.

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 August 27, 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 section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 28, 1993.

William M. Bulman,

Acting Regional Administrator, Region III.

Part 52 of 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 XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(28) to read as follows:

§ 52.2520 Identification of plan.

(c) * * *

(28) Revisions to the State Implementation Plan submitted by the West Virginia Department of Commerce, Labor, and Environmental Resource on August 15, 1990.

(i) Incorporation by reference.

(A) Letter from the West Virginia Department of Commerce, Labor, and Environmental Resources dated August 15, 1990 submitting a revision to the West Virginia State Implementation Plan.

(B) Amendments to the West Virginia Code Chapter 16, Article 20—Regulation VIII—"Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"; Regulation XI—"Prevention of Air Pollution Emergency Episodes"; and Regulation XIV—"Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of

Significant Deterioration". All three rules were adopted on March 19, 1990 and became effective April 25, 1990.

(ii) Additional materials.

(A) Remainder of the State Implementation Plan revision request submitted by the West Virginia Department of Commerce, Labor, and Environmental Resources on August 15, 1990.

[FR Doc. 93-15090 Filed 6-25-93; 8:45 am]

BILLING CODE 6590-50-P

40 CFR Part 52

[W124-2-5845; FRL-4654-5]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving Wisconsin particulate matter rules as a revision to Wisconsin's State Implementation Plan (SIP) for particulate matter. USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act.

DATES: This action will be effective August 27, 1993, unless notice is received within 30 days that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the *Federal Register*.

ADDRESSES: Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Daniel Meyer at (312) 886-9401, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

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

A copy of today's revision to the Wisconsin SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Daniel Meyer, Air Toxics and Radiation Branch, Regulation Development Section (AT-18J), U.S. Environmental

Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-9401.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On July 1, 1987, USEPA adopted regulations revising the national ambient air quality standard for PM. In its revision, USEPA replaced total suspended particulates (TSP) as an indicator for the PM standard with a new indicator that only includes those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. To implement the revised ambient standards, USEPA requires that states revise their SIPs in accordance with the revised federal regulations.

On March 13, 1989, Wisconsin Department of Natural Resources (WDNR) submitted rule package AM-2-88. AM-2-88 modifies Chapter NR, Sections 400.02, 404.02, 405.02, 406.04, and 484.03 of the Wisconsin Administrative Code (WAC). AM-2-88 pertains to changes in definitions for the establishment of an ambient air quality standard for PM. The rule package also includes a modification to the criteria which are used to exempt sources from a Prevention of Significant Deterioration review. Similarly on May 10, 1990, WDNR submitted rule package AM-22-88. AM-22-88 modifies Chapter NR, Sections 404.04 and 484.03 of the WAC. AM-22-88 pertains to PM standards, including the addition of ambient air quality standards for PM, and the deletion of TSP as an indicator of particulate matter. Both rule packages have been submitted as revisions to the SIP.

On December 23, 1992, USEPA proposed to disapprove the two rule packages as a revision to the Wisconsin SIP. The basis for this disapproval was the inclusion of certain provisions which appeared to permit the exercise of State discretion without USEPA approval. In response, WDNR submitted comments on January 22, 1993.

II. Analysis of State Submittal

The two packages are being considered for approval/disapproval as one interrelated revision to the SIP. Essentially, AM-2-88 defines PM, while AM-22-88 establishes standards for PM. Many of the definitions presented in AM-2-88 incorporate determinations to be made in the future by the exercise of WDNR discretion, without requiring USEPA review and approval of any resulting determination. For instance, AM-2-88 allows for the PM attainment status to be determined not only by the monitoring methodology approved by USEPA, but also by the use of

monitoring methodology established by WDNR (but not approved by USEPA). However, in WDNR's January 22, 1993, comments, Wisconsin specifies the USEPA test methods it utilizes to measure PM, and maintains it only uses test methods approved by USEPA. In addition, the State commits to obtaining prior USEPA approval for test methods not approved by USEPA. USEPA finds this commitment acceptable.

In addition, Rule NR 484.03(3) is incorrectly cited in Wisconsin's submission as NR 484.06(3). The citation has since been corrected in the WAC.

This notice approves Wisconsin's revision.

III. Rulemaking Action

USEPA is approving the Wisconsin particulate matter rules as a revision to the Wisconsin SIP. Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on August 27, 1993. However, if we receive notice by July 28, 1993, that someone wishes to submit adverse comments, then USEPA 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. USEPA 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.

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. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

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

include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the 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 any small 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).

The Agency has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

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 August 27, 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 section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 11, 1993.

Valdas V. Adamkus,
Regional Administrator.

For the reasons cited in the preamble, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671(q).

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(65) to read as follows:

§ 52.2570 Identification of plan.

(c) * * *

(65) On March 13, 1989, and May 10, 1990, Wisconsin Department of Natural Resources (WDNR) submitted rule packages AM-2-88 and AM-22-88, respectively, as revisions to its state implementation plan for particulate matter. AM-2-88 was published in December, 1988, and became effective on January 1, 1989. AM-2-88 modifies Chapter NR, Sections 400.02, 404.02, 405.02, 406.04, and 484.03 of the Wisconsin Administrative Code (WAC). AM-22-88 was published in September, 1989, and became effective on October 1, 1989. AM-22-88 modifies Chapter NR, Sections 404.04 and 484.03 of the WAC.

(i) Incorporation by reference.

(A) The rule packages revise NR 400.02, 404.02, 404.04, 405.02, 406.04, and 484.03 of the Wisconsin Administrative Code.

(ii) Additional information.

(A) A January 22, 1993, letter from D. Theiler, Director, Bureau of Air Management, WDNR, provides additional information responding to USEPA's proposed disapproval of the SIP revision, and contains WDNR's commitment to using only test methods approved by USEPA.

[FR Doc. 15089 Filed 6-25-93; 8:45 am]

BILLING CODE 8560-50-P

40 CFR Part 52

[MN3-1-5107; FRL-4657-9]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: With the publication of this action, USEPA is taking three actions. First, the USEPA is approving a revision to the Minnesota State Implementation Plan (SIP) for carbon monoxide (CO) submitted by the State on August 31, 1989, which removes the Lake George Interchange roadway improvement project (10th Avenue at First Street South) in St. Cloud, Minnesota, from the CO SIP. This measure was approved on December 13, 1979, into the CO SIP. Second, the USEPA is approving three transportation control measures (TCMs): (Enforcement of an existing ban on

double parking and extended idling on St. Germain corridor, removal of signs which encourage using the West St. Germain corridor and development of a signing plan directing through traffic to alternate routes, and creation of left-hand turns on Division Street between 19½ and 31st Avenues to decrease traffic congestion mentioned in the State's August 16, 1982, SIP revision. Third, the USEPA is disapproving two TCMs proposed in the 1982 CO SIP submittal as two of five TCMs which would provide emission reductions during a requested one year delay in implementing the Lake George Interchange roadway improvement project. Since the delay has been superseded by a request for removal, these TCMs are no longer relevant and would serve no purpose in the CO SIP. The disapproved TCMs include the following: Implementation of a media campaign designed to encourage use of transportation routes which will improve air quality in the city; and distribution of a pamphlet by local merchants encouraging the use of alternate transportation routes.

DATES: This action will be effective August 27, 1993 unless notice is received by July 28, 1993, 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: A copy of this revision to the Minnesota SIP is available for inspection at:

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Angela T. Lee, at (312) 353-5142, before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air Enforcement Branch (AE-17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rulemaking should be addressed to:

William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Angela T. Lee, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West

Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5142.

SUPPLEMENTARY INFORMATION: On December 13, 1979, USEPA approved the Lake George Interchange roadway improvement project, also known as the T.H. 23/10th Avenue transportation control measure (TCM) project, into the CO SIP for St. Cloud Minnesota (44 FR 72116). On August 16, 1982, the Minnesota Pollution Control Agency (MPCA) submitted an amendment to the Air Quality Plan for Transportation for the St. Cloud Metropolitan Area as a revision to the SIP. This submittal requested that five TCMs be implemented in 1982 in lieu of a delay in funding and implementation of the Lake George Interchange from 1982 to 1983. On May 18, 1983, USEPA proposed to approve the TCMs and disapprove the delay of the project (48 FR 22335).¹ USEPA never took final action on the August 16, 1982 submittal.

On August 31, 1989, the MPCA submitted a request to revise the St. Cloud CO SIP which would remove the proposed Lake George Interchange roadway improvement project from the CO SIP. The submittal included information supporting the revision. The Lake George Interchange roadway improvement project was one of a number of projects in the St. Cloud SIP designed to improve traffic flow and enhance air quality in the downtown area. All of the projects have been completed, with this one exception. The traffic flow has decreased in the critical area along St. Germain Street since these measures have been implemented. In addition, the MPCA has demonstrated that this project is not necessary to attain or maintain the National Ambient Air Quality Standards (NAAQS) for CO.

USEPA Evaluation and Rulemaking Action

A. Removal of the Lake George Interchange Roadway Improvement Project

By its August 31, 1989, SIP revision request, Minnesota seeks removal of the Lake George Interchange project from its CO SIP. This revision would supersede the State's previous request to delay implementation of that project.

Section 193 of the Clean Air Act (CAA) provides that a preenactment control measure may not be removed from a SIP for a nonattainment area unless it is replaced by a measure that

¹ In the May 18, 1983 Notice of Proposed Rulemaking, USEPA proposed action on the delay of a second project (9th and 10th Avenue project). Since the MPCA never formally requested the delay of the second project, the USEPA is not taking further action on the delay of this project.

provides equivalent or greater emission reductions. The purpose of the Lake George Interchange roadway improvement project was to encourage traffic to bypass the critical area along St. Germain Street. Evidence suggests that roadway improvements in the area have significantly reduced traffic volume on St. Germain Street.

In 1978, average daily traffic volume (ADT) on St. Germain Street was approximately 8,000 vehicles. In 1982, the ADT had fallen to 7,600 vehicles, and by 1987, it had fallen further to only 7,200. Other roadways outside of the St. Germain Street canyon generally increased in volume by approximately 2 percent per year. Thus, the ADT on St. Germain Street fell by 10 percent over the nine-year period while the ADT on other roadways which are better able to handle the traffic increased by almost 20 percent. In addition to the reduced traffic volume on St. Germain Street, the evolving Federal Motor Vehicle Control Program (FMVCP) continues to provide further emission reductions in the CO "hotspot" by reducing vehicular emissions through fleet turnover.

In support of the 1989 request to remove the Lake George Interchange roadway improvement project from the SIP, the MPCA submitted a report addressing the current status of CO levels in the City of St. Cloud. This report was intended to demonstrate monitored attainment and was accompanied by related documents and supplemental data reports. Detailed information on this data is contained in the USEPA's August 14, 1990, Technical Support Document (TSD).

Based on CO dispersion modeling, the MPCA has demonstrated that the NAAQS have been attained and will be maintained in St. Cloud through the year 2000 without implementation of the Lake George Interchange roadway improvement project. The model was used to compute CO concentrations at receptor sites located at the four area intersections with the highest traffic volumes and the former and current monitoring site. A further discussion of the modeling is contained in the August 14, 1990, TSD.

USEPA believes that the emission reductions that would have occurred had the Lake George Interchange roadway improvement project been implemented are provided by three transportation control measures. These measures have accomplished the purpose of the Lake George Interchange roadway improvement project—that of diverting traffic from St. Germain Street—and they continue to provide emission reductions in the CO "hotspot." These measures were

submitted as part of Minnesota's August 16, 1982, SIP submittal and were implemented in 1982. USEPA proposed approval of these measures on May 18, 1983, but never took final action to approve these measures into the SIP. Today, USEPA is taking final action to approve the three measures into the SIP as a replacement for the Lake George Interchange project. These measures include the following:

(1) Enforcement of an existing ban on double parking and extended idling on St. Germain Street,

(2) Creation of left-hand turns on Division Street between 19½ and 31st Avenues to decrease traffic congestion, and

(3) Removal of signs which encourage using the West St. Germain corridor and development of a signing plan directing through traffic to alternate routes.

These measures are currently being implemented and are discussed in an addendum to the August 14, 1990, TSD.

B. Disapproval of Two Transportation Control Measures

The State's August 16, 1982, submittal also included two additional transportation control measures. Today USEPA is disapproving these measures because they were to be implemented only during the proposed delay of the Lake George Interchange roadway improvement project. Since the delay has been superseded by a request for removal, the measures are no longer relevant and would serve no purpose in the SIP.

Final Action

By today's action, USEPA is approving the removal of the Lake George Interchange from Minnesota's approved CO SIP. In addition, USEPA is approving three new TCMs into the CO SIP and disapproving two other submitted TCMs. The measures being approved include the following:

(1) Enforcement of an existing ban on double parking and extended idling on St. Germain Street,

(2) Creation of left-hand turns on Division Street between 19½ and 31st Avenues to decrease traffic congestion, and

(3) Removal of signs which encourage using the West St. Germain corridor and development of a signing plan directing through traffic to alternate routes.

EPA is also disapproving the following two TCMs:

(1) Implementation of a media campaign designed to encourage use of transportation routes which will improve air quality in the city, and

(2) Distribution of a pamphlet by local merchants encouraging the use of alternate transportation routes.

Because USEPA considers this action noncontroversial and routine, the Agency is taking action today without prior proposal. The action will become effective on August 27, 1993. However, if USEPA receives notice by July 28, 1993 that someone wishes to submit critical comments, then USEPA will publish the following: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking proposing the action and establishing a comment period.

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.

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 222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA 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 fewer than 50,000.

SIP approvals under section 110 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 any small 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

USEPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new federal requirements. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

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 August 27, 1993. Filing 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

Air pollution control,
Intergovernmental relations,
Incorporation by reference, Carbon monoxide, Environmental protection.

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

Dated: May 11, 1993.

Valdas V. Adamkus,
Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401-7671q.

2. Section 52.1220 is amended by adding a new paragraph (c)(27) to read as follows:

§ 52.1220 Identification of plan.

(c) * * *

(27) On August 16, 1982, the MPCA submitted an amendment to the St. Cloud Area Air Quality Control Plan for Transportation as a State Implementation Plan revision. This revision to the SIP was adopted by the Board of the Minnesota Pollution Control Agency on July 27, 1982. On August 31, 1989, the Minnesota Pollution Control Agency submitted a revision to the Minnesota State Implementation Plan (SIP) for carbon monoxide deleting the Lake George Interchange roadway improvement project (10th Avenue at First Street South) from its St. Cloud transportation control measures. This revision to the SIP was approved by the Board on June 27, 1989.

(i) Incorporation by reference.

(A) Letter dated August 16, 1982, from Louis J. Breimburst, Executive Director, Minnesota Pollution Control Agency to Valdas V. Adamkus, Regional Administrator, United States Environmental Protection Agency—Region 5 and its enclosed amendment to the Air Quality Plan for Transportation for the St. Cloud Metropolitan Area entitled, "Staff Resolution," measures 1, 4 and 5 adopted by the Minnesota Pollution Control Agency on July 27, 1982.

(B) Letter dated August 31, 1989, from Gerald L. Willet, Commissioner, Minnesota Pollution Control Agency to Valdas V. Adamkus, Regional Administrator, United States Environmental Protection Agency—Region 5.

[FR Doc. 93-15141 Filed 6-25-93; 8:45 am]

BILLING CODE 6580-50-P

40 CFR Part 81

[MN2-1-5105; FRL-4672-2]

Redesignation of Areas for Air Quality Planning Purposes; Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a change of the carbon monoxide (CO) designation for the City of St. Cloud from nonattainment to attainment. The revision is based on a request from the State of Minnesota to redesignate this area and on the supporting data the State submitted. Under section 107(d)(3)(E) of the Clean Air Act, designations can be changed if sufficient data are available to warrant such

change. USEPA is also finding that Minnesota has adequately responded to USEPA's May 26, 1988, notice of inadequacy of the St. Cloud CO State Implementation Plan (SIP).

DATES: This action will be effective August 27, 1993 unless notice is received by July 28, 1993, that someone wishes to submit adverse or critical comments on either this action or on an action published elsewhere in today's **Federal Register** which approves a revision to the St. Cloud CO plan. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the redesignation request, the technical support document, and the supporting air quality data are available at the following address for review: (It is recommended that you telephone Angela Lee at 312-353-5142 before visiting the Region 5 office.)

United States Environmental Protection Agency, Region 5, Air Enforcement Branch (AE-17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rulemaking should be addressed to:

William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Angela T. Lee, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5142.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the pre-amended Clean Air Act (CAA), the USEPA promulgated the carbon monoxide (CO) attainment status for each area of every State. For Minnesota, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978) codified at 40 CFR 81.324. These area designations may be revised whenever the data warrant. On August 31, 1989, the Minnesota Pollution Control Agency (MPCA) submitted a request for the redesignation of the City of St. Cloud, Minnesota to attainment of the National Ambient Air Quality Standards (NAAQS) for CO. This redesignation request applies to Sherburne, Benton and Stearns Counties. The redesignation request was accompanied by a report containing information supporting the redesignation request. Prior to USEPA's action on that request, on November 15, 1990, the Clean Air Act Amendments (CAAA) of 1990 were enacted. Public

Law 101-549, codified at 42 U.S.C. 7401-7671q. Pursuant to section 107(d)(1)(C) of the amended Act, the St. Cloud area retained its designation of nonattainment upon enactment of the CAAA, since St. Cloud was designated nonattainment prior to enactment. (See 56 FR 56694, November 6, 1991, and 57 FR 56762, November 30, 1992.)

Requirements for Redesignation

Although Minnesota submitted its redesignation request before enactment of the CAAA, the amended Act provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the NAAQS; (ii) The Administrator has fully approved the applicable implementation plan for the area under section 110(k); (iii) 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 regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (v) The State containing such area has met all requirements applicable to the area under section 110 and part D.

USEPA's redesignation policy may be found in the General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992), 57 FR 18070 (April 28, 1992), and in policy memoranda.

The NAAQS for CO are 9 parts per million (ppm) for an 8-hour average concentration not to be exceeded more than once per year, and 35 ppm for a 1-hour average concentration not to be exceeded more than once per year. Further clarification is given in a May 27, 1983, memorandum from Richard G. Rhoads, USEPA, to Gary L. O'Neal, USEPA, Subject: Summary of NAAQS Interpretation. This memorandum explains that the 8-hour concentrations are to be based on running 8-hour averages, with the convention that a monitored violation of the NAAQS requires at least two non-overlapping 8-hour averages above the level of the standard.

Data Supporting the Requested Redesignation

In support of the redesignation request, the MPCA submitted a report addressing the current status of CO