a.5. Employing any of the cryptographic items controlled under Category XIII(b) of the U.S. Munitions List (USML);

a.6. Employing radiation-hardened devices controlled elsewhere in § 121.1 of the ITAR (22 CFR 121.1) that are not "embedded" in the satellite in such a way as to deny physical access. (For purposes of this subparagraph "embedded" means that the device cannot feasibly either be removed from the satellite or used for other purposes);

a.7. Having propulsion systems that permit acceleration of the satellite on-orbit (i.e. after mission orbit injection) at rates greater than 0.1 g;

a.8. Having attitude control and determination systems designed to provide spacecraft pointing determination and control better than 0.02 degrees per axis; or

a.9. Having orbit transfer engines ("kick-motors") that remain permanently with the spacecraft and are capable of being restarted after achievement of mission orbit and providing acceleration greater than 1 g. (Orbit transfer engines that are not designed, built, and shipped as an integral part of the satellite are controlled under Category IV of the USML).

[Reserved]

b. Other "spacecraft", not controlled under Category XV of the USML.

Note: 9A04.c includes the international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration.

Note 1: Transferring registration or operational control to any foreign person of any satellite controlled by this entry must be authorized by an individual validated license. This requirement applies whether the satellite is physically located in the United States or abroad.

Note 2: All communication satellites identified in paragraphs a.1. through a.9. of this ECCN, and specially designed components, parts, accessories, attachments, associated equipment, and ground support equipment thereof, require a license from the Department of State, Office of Defense Trade Controls (see Category XV of the USML).


Sue E. Eckert,
Assistant Secretary for Export Administration.

[FR Doc. 94-23088 Filed 9-16-94; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Counterfeit Drugs Enforcement Activities

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to enforcement activities. The amendment designates FDA officers or employees who have been issued official credential FDA–200D to administer oaths and affirmations for use in any prosecution or proceeding under or in the enforcement of any law enforced by FDA.


SUPPLEMENTARY INFORMATION: FDA is amending the regulations for delegations of authority for § 5.35 Enforcement activities [21 CFR 5.35] by designating FDA officers and employees who have been issued official credential FDA–200D, Special Authority for Criminal Investigators, the authority to administer oaths and affirmations for use in any prosecution or proceeding under or in the enforcement of any law enforced by FDA. This authority is the same as that delegated to holders of FDA–200A and FDA–200B credentials. This authority may not be redelegated.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:


2. Section 5.35 is amended by adding new paragraph (b)(3) to read as follows:

§ 5.35 Enforcement activities.

(b)(3) To administer oaths and affirmations under section 1 of the act of January 31, 1925 (Ch. 124, 43 Stat. 803); sections 12 to 15 of Reorganization Plan No. IV, effective June 30, 1940; and Reorganization Plan No. 1 of 1953, effective April 11, 1953.


Gary Dykstra,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 94–23036 Filed 9–16–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

Bureau of Political–Military Affairs

22 CFR Part 121

[Public Notice 2056]

Amendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations implementing section 38 of the Arms Export Control Act, which governs the export of defense articles and defense services. Specifically, this rule moves from the controls of Category XV of the USML to those of entry 9A04 of the Commerce Control List (CCL) the international space station being built under the supervision of the National Aeronautics and Space Administration (NASA) and NASA’s international partners: the space agencies of Japan, Canada, the European Space Agency, and Russia. This movement applies to the space station itself, as well as all components, parts, accessories, attachments and associated equipment specifically designed, modified or
configured for the space station, and all directly related technical data, software and services for those items, except for such data, software and services which are controlled under Category XV (f) of the U.S. Munitions List (USML). This rule reduces the burden on exporters by removing both the above-cited hardware and software and technical data from the controls of the International Traffic in Arms Regulations (ITAR).

The Department of Commerce is publishing separately a final rule under the provisions of the Export Administration Regulations, to amend the relevant Export Commodity Control Number (ECCN) category, i.e., 9A04, to add the international space station and all its specifically designed, modified, or configured components, parts, accessories, attachments and associated equipment, software, and technical data and services not captured under Category XV (f) of the USML, to the control of the USML. This rule will take effect upon September 19, 1994.

For further information contact: Kenneth M. Peoples, Office of Defense Trade Controls, Department of State, telephone number 703-875-6619, fax 703-875-6647.

Supplementary Information: On November 16, 1990, President Bush directed that the United States Government “remove from the USML all items contained on the COCOM dual use list unless significant U.S. national security interests would be jeopardized.” (Vol. 26, No. 46, Weekly Compilation of Presidential Documents p. 1839.) To implement this directive, the Department of State established several inter-agency working groups to identify where overlaps of items on the USML and the COCOM dual use list existed and whether removal of these items from the USML would significantly jeopardize U.S. national security.

One of these inter-agency groups, the Space Technical Working Group (STWG), identified non-military spacecraft as an item involving such an overlap and recommended movement of all non-military spacecraft from the USML to the Commerce Control List (CCL), except where such movement would “significantly jeopardize U.S. national security.” Among those spacecraft identified as constituting an overlap and recommended for movement to the CCL was the international space station being built by NASA and its international partners.

On September 5, 1991, the Department published in the Federal Register an advance notice of proposed rule-making, establishing a new Category XV for spacecraft and related systems (56 FR 43894) and advising that a series of proposed rules would follow. A final rule formally creating category XV for Spacecraft Systems and Associated Equipment was published in the Federal Register on April 27, 1992 (57 FR 15227).

In late 1993, President Clinton directed NASA to add the Russian Space Agency as a partner to its international space station program and instructed other U.S. Government agencies to provide the necessary assistance to NASA to enable it to continue to carry out that program. An inter-agency Space Station Export Control Steering Committee met on March 10, 1994, and recommended several steps in the area of U.S. export controls which will be necessary for NASA to advance its international space station program. One of the recommended steps is the movement of the USML to the CCL.

For purposes of clarification, this rule makes two additional minor changes, which have been requested by U.S. industry, to the language of Category XV of the USML for purposes of clarification. In paragraph (c)(2)(ii), the word “all” has been inserted to indicate that all sidelobes on the relevant satellite must be less than or equal to -35dB; or (ii) With all sidelobes less than or equal to -35dB.

In Category XV, paragraph (f), involving technical data and defense services, the first sentence has been corrected to show coverage of paragraph (f) over preceding paragraphs (e) through (g), instead of (a) through (f). In addition, the wording of the final two sentences of the paragraph has been amended to clarify the fact that those two sentences are directed only at the spacecraft which have been moved off the USML to the CCL.

This amendment involves a foreign affairs function of the United States and thus is excluded from the major rule procedures of Executive Order 12291 (46 FR 13193) and the procedures of the Administrative Procedure Act (5 U.S.C. 553 and 554).

List of Subjects in 22 CFR Part 121

Arms and Munitions, Exports.

Accordingly, for the reasons set forth in the preamble, 22 CFR subchapter M, part 121 is amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for Part 121 continues to read as follows:


2. In §121.1, Category XV is amended by revising paragraphs (c) introductory text, (c)(2)(ii), and (f), and adding a NOTE reading as follows:

§121.1 General. The United States Munitions List.

Category XV—Spacecraft Systems and Associated Equipment

(c) Communications satellites (excluding ground stations and their associated equipment and technical data not enumerated elsewhere in §121.1 of this subchapter; for controls on such ground stations, see the Commercial Control List) with any of the following characteristics:

* * * * * *

(2) * * * * * *

(ii) With all sidelobes less than or equal to -35dB; or

* * * * * *

(1) Technical data as defined in §120.21 of this subchapter and defense services (as defined in §120.8 of this subchapter) directly related to the defense articles in paragraphs (a) through (e) of this category. (See §125.4 for exceptions.) Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant

* * * * * 
Military Equipment (SME) shall itself be designated SME. In addition, detailed design, development, production or manufacturing data for all spacecraft systems and for specifically designed or modified components for all spacecraft systems, regardless of which U.S. Government agency has jurisdiction for export of the spacecraft. (See § 125.4 for exceptions.) This coverage by the U.S. Munitions List of detailed design, development, manufacturing or production information directly related to satellites which are not otherwise under the control of this section does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured, and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations), as well as data necessary to evaluate in-orbit anomalies and to operate and maintain associated ground equipment.

Note: The international space station, being developed, launched and operated under the supervision of the National Aeronautics and Space Administration, is controlled for export purposes under the Export Administration Regulations.

The Secretary also corrects an error in the preamble to these regulations published in the Federal Register on April 29, 1994.


Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On April 29, 1994, final regulations were published in the Federal Register governing Institutional Eligibility Under the Higher Education Act of 1965, as Amended (59 FR 22324). Compliance with information collection requirements in 34 CFR 600.5, 600.7, 600.10, 600.20, 600.30, and 600.31 was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of 1980. On July 25, 1994 OMB approved those information collection requirements under that Act; therefore affected parties must now comply with those requirements.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B) that the rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(d)(3).

List of Subjects in 34 CFR Part 600

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping, Student aid.


David A. Longanecker,
Assistant Secretary for Postsecondary Education.
(Catalog of Federal Domestic Assistance Number does not apply.)

The Secretary amends Part 600 of Title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

1. The authority citation for Part 600 continues to read as follows:

Authority: 20 U.S.C. 1088, 1091, 1094, 1099b, 1099c, and 1141, unless otherwise noted.

2. Sections 600.5, 600.7, 600.10, 600.20, 600.30, and 600.31 are amended by adding an OMB control number at the end of these sections to read as follows: “(Approved by the Office of Management and Budget under control number 1840–0098)”

3. The following correction is made in FR Doc. 94–10139, published in the Federal Register of April 29, 1994, (59 FR 22324): On page 22324, column 1, the first sentence after the heading “EFFECTIVE DATE” is corrected to read as follows: These regulations take effect on July 1, 1994. However, affected parties do not have to comply with information collection requirements contained in §§ 600.5, 600.7, 600.10, 600.20, 600.30 and 600.31 until the information collection requirements contained in these sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

[FR Doc. 94–23097 Filed 9–16–94; 8:45 am]
BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

(ID 6–1–6300a; FRL–5056–5)

Approval and Promulgation of Small Business Assistance Program: State of Idaho

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves the State Implementation Plan (SIP) revision submitted by the State of Idaho for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The implementation plan was submitted by the State to satisfy the Federal mandate, found in section 507 of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information

DEPARTMENT OF EDUCATION

34 CFR Part 600

Institutional Eligibility Under the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Final regulations, correction, compliance with information collection requirements.

SUMMARY: The Secretary amends the regulations governing Institutional Eligibility Under the Higher Education Act of 1965, as Amended to add the Office of Management and Budget (OMB) control numbers to certain sections of the regulations. Those sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved, and therefore affected parties must comply with them.
necessary to comply with the CAA. The rationale for the approval is set forth in this document; additional information is available at the address indicated below.

DATES: This final rule will be effective on November 18, 1994 unless adverse or critical comments are received by October 19, 1994. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air and Radiation Branch (AT-082), EPA, 1200 Sixth Avenue, Seattle, WA 98101. Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460. Copies of the State's submittal and EPA's technical support document are available for inspection during normal business hours at the following locations: EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, and Idaho Division of Environmental Quality, 1410 North Highway, Boise, ID, 83706.

FOR FURTHER INFORMATION CONTACT: David J. Dellarco, Air and Radiation Branch (AT-082), EPA, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553-4978.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the CAA, as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the National Ambient Air Quality Standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs EPA to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the CAA. In January 1992, EPA issued Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

The State of Idaho has submitted a SIP revision to EPA in order to satisfy the requirements of section 507. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel to determine and report on the overall effectiveness of the SBAP.

II. Analysis

1. Small Business Assistance Program

Section 507(a) sets forth six requirements that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act. The State has met this requirement by first conducting pilot programs to evaluate the best methods for organizing and providing technical assistance to small businesses. In addition, the State of Idaho plans to use both proactive and reactive elements to provide information to small businesses. Proactive elements include publications, news releases, public presentations, and outreach performed by the Idaho Small Business Development Center, Idaho Small Business Institute, and the States' five Regional Economic Development and Planning Agencies. Reactive elements include a hotline to respond to small business inquiries.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, processes, products and methods of operation that help reduce air pollution. The State has met this requirement through its plans to integrate the States' pollution prevention and waste reduction programs' technical assistance capabilities into its small business program. In addition, Idaho will utilize the services of program staff to directly assist small businesses in the areas of accidental release detection and prevention.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner. The State has met this requirement by providing assistance to small businesses through the use of trained staff. The availability of compliance assistance will be publicized and small business stationary sources will be encouraged to seek assistance. Program staff will identify alternative methods and technologies for compliance with each specific regulation.

The fourth requirement is to develop adequate mechanisms for ensuring that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act. The State has met this requirement by establishing a policy to provide as much notice of small business rights under the CAA as is reasonable and practicable. Information on small business rights will be included in Information materials and other outreach activities. Program staff will ensure that both small business rights and obligations are provided to small business stationary sources in advance of applicable regulations taking effect.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act. The State has met this requirement by developing a program for qualified auditors to provide small business stationary sources, upon request, with an on-site determination of compliance with applicable air quality regulations.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance.
date, based on the technological and financial capability of any such small business stationary source. The State has met this requirement by developing standardized criteria and administrative procedures for considering requests of the nature identified above, including provisions to ensure that granting such requests will not affect the status of the federally-approved SIP and is consistent with the applicable requirements of the CAA.

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by appointing an Ombudsman, which Idaho calls its Small Business Advocate.

3. Compliance Advisory Panel

Section 507(a) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has met this requirement by establishing a CAP, which Idaho calls its Small Business Assistance Advisory Board.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to EPA concerning the SBAP’s adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act; (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has met these requirements through its authorization of the Small Business Assistance Advisory Board.

4. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:
(A) Is owned or operated by a person who employs 100 or fewer individuals;
(B) Is a small business concern as defined in the Small Business Act;
(C) Is not a major stationary source; and
(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
(E) Emits less than 75 tpy of all regulated pollutants.

The State of Idaho has established a mechanism for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA. The State of Idaho has provided for public notice and comment on the availability of federal aid to small business stationary sources to determine if the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

III. This Action

In today's action, EPA approves the SIP revision submitted by the State of Idaho. The State of Idaho has submitted a SIP revision implementing each of the programs of sections 507(c)(1)(C), (D), and (E) of the CAA, except that the State of Idaho does not met the provisions of sections 507(c)(1) of the CAA. The State of Idaho has provided for public notice and comment on the availability of federal aid to small business stationary sources to determine if the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 603 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.

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, EPA must 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 EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 18, 1994 unless, by October 19, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 18, 1994.

The EPA has received this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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, 1998 (54 FR 2214-2223), as amended by an October 4, 1993 memorandum from Michael H. Shapiro,
Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

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 18, 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), 42 U.S.C. 7667(b)(2)).

List of Subjects in 40 CFR Part 52
Air pollution control, Incorporation by reference, Small business assistance program.

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


Jane S. Moore.
Acting 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 N—Idaho
Section 52.670 is amended by adding paragraph (c) (30) to read as follows:

§ 52.670 Identification of plan.

(c) * * * * *

(30) On January 7, 1994, the Administrator for the Idaho Department of Health and Welfare, Division of Environmental Quality, submitted the State PROGRAM as a revision to the Idaho SIP.

II. Background

Indiana's SO2 SIP for Gibson County, which is part of Title 326 of the Indiana Administrative Code (326 IAC), specifically 326 IAC 7–1–19, was approved by USEPA for incorporation into the SIP on January 19, 1989 (54 FR 2112). It set forth a schedule of emission limitations for PSI Gibson whereby the facility's SO2 emissions would decrease to protect the primary SO2 NAAQS by December 31, 1991, and then over several years would decrease further to protect the secondary SO2 standard. The facility was to comply with these emission limits by burning low sulfur coal in Units 1–4. The rule allowed PSI Gibson to consider alternate compliance strategies and request a set of alternate emission limits, if necessary. PSI Gibson was required to submit a plan to Indiana by December 31, 1988, detailing the compliance path it intended to follow.

In 1988, PSI Gibson submitted a compliance plan to Indiana which requested an alternate emission limitation schedule. In this approach, PSI Gibson would install and operate a flue gas desulfurization system on Unit 4 to control SO2 emissions. This alternate schedule would allow PSI Gibson to emit much less SO2 from Unit 4 but slightly more SO2 from Units 1–