EFFECTIVE DATE: This final rule is effective July 19, 1995. The interim rule was effective November 29, 1994.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: On November 29, 1994, VA published in the **Federal Register** an interim rule with request for comments (59 FR 60901). The rule added a diagnostic code (DC 6354) and evaluation criteria for chronic fatigue syndrome to the section of the VA Schedule for Rating Disabilities (38 CFR Part 4) on systemic diseases (38 CFR 4.88b). A 60-day comment period ended January 30, 1995, and no comments were received.

Based on the rationale set forth in the interim rule document, we are adopting the provisions of the interim rule as a final rule without change. This final rule also affirms the information in the interim rule document concerning Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Individuals with disability, Pensions, Veterans.

Approved: July 10, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 95–17659 Filed 7–18–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI42–02–7122; FRL–5259–7]

Determination of Attainment of Ozone Standard by Grand Rapids and Muskegon, Michigan; Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements: Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 2, 1995, the EPA published a proposed rule (60 FR 28773) and a direct final rule (60 FR 28729) determining that the Grand Rapids (Kent and Ottawa Counties) and Muskegon (Muskegon County), Michigan ozone nonattainment areas have attained the National Ambient Air Quality Standard (NAAQS) for ozone. Based on that determination, the EPA also determined that requirements of section 182(b)(1) of the Clean Air Act (Act) concerning the submission of the 15 percent plan and ozone attainment demonstration and the requirements of section 172(c)(9) of the Act concerning contingency measures are not applicable to the areas so long as the areas do not violate the ozone standard. The EPA is removing the final rule due to adverse comments and will summarize and address all public comments received in a subsequent final rule (based upon the proposed rule cited above).

EFFECTIVE DATE: This withdrawal of the direct final action will be effective July 19, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Madelin Rucker, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 886–0661.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 11, 1995.

Valdas V. Adamkus,

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 X—Michigan

2. Section 52.1174(k) is removed.

[FR Doc. 95–17672 Filed 7–18–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[OR45–1–6762a; FRL–5251–4]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves a revision to the State of Oregon's Air Quality Control Plan Volume 2 (The Federal Clean Air Act State Implementation Plan and other State Regulations). Specifically EPA approves a revision to Section 2.2—Legal Authority, of the State's Implementation Plan (SIP) and a revision to Chapters 468 and 468A of the Oregon Revised Statutes (ORS). The SIP revision was submitted to address section 110(a)(2)(E) of the Clean Air Act, as amended (CAA).

DATES: This action will be effective on September 18, 1995 unless adverse or critical comments are received by August 18, 1995.

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 & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and the ODEQ, 811 SW., Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Air & Radiation Branch (AT–082), EPA, Seattle, Washington 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION.

I. Background

On July 29, 1992, the Oregon Department of Environmental Quality (ODEQ) submitted to EPA a revision to Chapter 468 of the Oregon Revised Statutes (ORS), a new ORS Chapter 468A, and a revised Section 2.2—Legal Authority, to the federally approved SIP. This submittal contained statutes amended or adopted through July, 1991. In addition, some of the statutes previously contained in Chapter 468 were renumbered and moved into the

newly created Chapter 468A entitled "Air Quality". Chapter 468A was created for those statutes specific to air quality. Also, the title for Chapter 468 was changed from "Pollution Control" to "Environmental Quality Generally".

Section 2.2—Legal Authority. This section of the SIP discusses the legal basis upon which Oregon's Environmental Quality Commission establishes policy for the operation of ODEQ and upon which ODEQ functions to control, prevent and abate air pollution in Oregon. This section also contains the statutes upon which Oregon's legal authority to regulate air pollutants is based.

On August 30, 1994, the State of Oregon submitted to EPA another revision to Chapters 468 and 468A of the ORS. These revised chapters include statutes amended or adopted by the Oregon Legislature through August, 1993, and became state effective on November 4, 1993.

Because the August 30, 1994, submittal supersedes the 1992 submittal of Chapters 468 and 468A, EPA is taking action on the 1994 submittal of the chapters and the 1992 submittal of Section 2.2—Legal Authority in this document.

The August 30, 1994, submittal includes the following provisions in ORS Chapter 468: General Administration—sections 468.005 through 468.075, Enforcement—sections 468.090 to 468.140, and Pollution Control Facilities Tax Credit—sections 468.150 to 468.190. ORS Chapter 468A contains the following provisions: Air Pollution Control—sections 468A.005 to 468A.085, Regional Air Quality Control Authorities—sections 468A.100 to 468A.180, Small Business Stationary Source Technical and Environmental Compliance Assistance Program—section 468A.330, Motor Vehicle Pollution Control—sections 468A.350 to 468A.455, Woodstove Emissions Control—sections 468A.460 to 468A.520, and Field Burning and Propane Flaming—sections 468A.550 to 468A.620.

In this document, EPA approves the above statutes, except for ORS 468A.075 and ORS 468A.330, as meeting the requirements of section 110(a)(2)(E) of the CAA and 40 CFR part 51, subpart L—Legal Authority. EPA is not acting on ORS 468A.075 and ORS 468A.330 in this **Federal Register** document. Section 110(a)(2)(E) requires, among other things, that a SIP provides assurance that a state has adequate authority under state law to carry out SIP requirements (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof).

As discussed in Section 2.2 of the SIP, ODEQ recognizes that EPA has not previously approved, nor will EPA now approve, statutes or regulations for variances as revisions to the SIP. ORS 468A.075 provides the authority for the state to grant variances from air contamination rules and standards. However, since SIP rules and standards are relied upon to attain and maintain the National Ambient Air Quality Standards (NAAQS), and because any relaxation of a SIP requirement would require a SIP revision, and only EPA can approve a revision, it is not appropriate for EPA to approve the state's authority to grant variances into the SIP.

It should be noted that even if the state grants a source specific variance to a SIP limit, EPA is not precluded from enforcing the federally approved SIP limit. Thus, granting of a variance by the state does not change the federally enforceable and approved SIP limit.

EPA is also not acting on ORS 468A.330. This section authorizes the state to establish a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (SBAP) in accordance with section 507 of the CAA. The statute, in conjunction with the SBAP, will be reviewed and acted on at a later date.

All measures and other elements in a SIP must be enforceable by ODEQ and EPA (See sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541).

During review of the 1992 submittal, EPA determined that the Oregon Revised Statute Chapter 468, as amended in 1991, bars civil penalties from being imposed for certain stationary source permit violations. Specifically, ORS 468.126(1) provided that penalties could not be assessed against a source for permit violations unless the state first provided notice of the violation to the source, and further, if within five days, the source came into compliance or provided an adequate schedule to come into compliance in the future, no penalties could be assessed. EPA informed the Oregon Department of Environmental Quality that this provision was unacceptable to the extent it applied to permit limits which were specified in the SIP and were relied on to attain, maintain or demonstrate attainment with a NAAQS.

On September 3, 1993, the Governor of Oregon signed into law new legislation correcting this deficiency. The new law provides that the five-day advance notice provision required by ORS 468.126(1) does not apply if the notice requirement would disqualify a state program from federal approval or delegation (see ORS 468.126(2)(e)).

The state has acknowledged, by a letter dated November 5, 1993, that, pursuant to ORS 468.126(2)(e), the notice provision in ORS 468.126(1) will not apply to violations of SIP requirements contained in permits, including permits containing industrial source control requirements, relied upon to attain, maintain, or demonstrate attainment with a NAAQS. Therefore, EPA is approving this provision into the SIP. It's application to non-SIP items that are specified in a permit will be separately reviewed in conjunction with any submitted permit program.

II. This Action

EPA approves the July 29, 1992, submittal revising Section 2.2—Legal Authority of the Oregon SIP. EPA also approves the August 30, 1994, submittal revising ORS Chapters 468 and 468A, except for ORS 468A.075 and ORS 468A.330. This revision of the ORS became state effective November 4, 1993.

III. Administrative Review

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.

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 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 September 18, 1995 unless, by August 18, 1995 adverse or critical comments are received.

If the EPA receives such comments, this action will be timely withdrawn 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 September 18, 1995.

The EPA has reviewed 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.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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), as revised 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 E.O. 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 September 18, 1995. 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. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: June 23, 1995.

Chuck Clarke,

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 MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(111) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(111) The EPA approves a revision to the State of Oregon's Air Quality Control Plan Volume 2 (The Federal Clean Air Act State Implementation Plan and other State Regulations), specifically a revision to Section 2.2—Legal Authority and a revision to Chapters 468 and 468A of the Oregon Revised Statutes (ORS).

(i) Incorporation by reference.

(A) On July 29, 1992 and August 30, 1994, ODEQ submitted to EPA a revision to Oregon Revised Statutes (ORS), Chapter 468 (1993 Edition), and Chapter 468A (1993 Edition), both of which were amended and adopted through August 1993 and in effect on November 4, 1993; and a revised Section 2.2—Legal Authority, including subsections 2.2.1 through 2.2.9, dated and revised July 29, 1992, the date of the official attached transmittal letter.

[FR Doc. 95–17670 Filed 7–18–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[PA63–1–7124; FRL–5259–6]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania: Determination of Attainment of Ozone Standard by the Pittsburgh-Beaver Valley and Reading Ozone Nonattainment Areas and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has determined that the Pittsburgh-Beaver Valley and Reading ozone nonattainment areas have attained the National Ambient Air Quality standard (NAAQS) for ozone. This determination is based upon three years of ambient air monitoring data for the years 1992–94 that demonstrate that the ozone NAAQS has been attained in these areas. On the basis of this determination, EPA is also determining that certain reasonable further progress (RFP) and attainment demonstration requirements, along with certain other related requirements, of Part D of Title I of the Clean Air Act (CAA) are not applicable to these areas as long as these areas continue to attain the ozone NAAQS.

EFFECTIVE DATE: July 19, 1995.