

SIP approvals under 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).

List of Subjects in 40 CFR Part 52

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

Dated: September 22, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, 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 II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(76) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(76) The North Carolina Department of Environment, Health, and Natural Resources submitted revisions to the North Carolina State Implementation Plan on November 2, 1989. These revisions incorporate SO₂ limits and permit conditions for Texasgulf, Incorporated.

(i) Incorporation by reference.

(A) Permit for Texasgulf, Incorporated (air permit no. 2331R10) which was issued by the Environmental Management Commission on October 13, 1989.

(ii) Additional material—none.

[FR Doc. 94-25679 Filed 10-17-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 52 and 81

[MN25-1-6002a, MN-1-6093a; FRL-5083-2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On June 22, 1993, the Minnesota Pollution Control Agency (MPCA) submitted a State Implementation Plan (SIP) revision and request for redesignation from nonattainment to attainment to the United States Environmental Protection Agency (USEPA). This submittal was in response to a designation to nonattainment, effective January 6, 1992, for an area in Dakota County, Minnesota. The MPCA submittal consisted of an administrative order for the Gopher Smelting and Refining Company, a secondary lead smelter located in Eagan, Minnesota. The submittal also contained technical support information in the form of air dispersion modeling an ambient air monitoring data. The proposed SIP revision and request for redesignation was submitted to satisfy the requirements of the Clean Air Act (CAA). A letter, identifying specific issues pertaining to the proposed SIP revision, was sent to the MPCA on April 8, 1994. In response to those issues, the MPCA amended the original administrative order and has submitted it to USEPA. In this action, USEPA is granting direct final approval of the SIP revision and redesignation requests.

DATES: This final rule is effective December 19, 1994 unless notice is received by November 17, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the *Federal Register*.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604; and Air Docket (6102), United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE-17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 353-6713.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 6, 1991, USEPA, in accordance with the Clean Air Act (CAA), title I, section 107(d)(3), designated an area in Dakota County, Minnesota as nonattainment for the primary and secondary National Ambient Air Quality Standards (NAAQS) for lead of 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). The nonattainment area is bounded by Lone Oak Road (County Road 26) to the north, County Road 63 to the east, Westcott Road to the south, and Lexington Avenue (County Road 43) to the west. The basis for the nonattainment designation was monitored violations of the NAAQS. The major lead source in the area is the Gopher Smelting and Refining Company (Gopher Smelting), located in Eagan, Minnesota. As a result of this nonattainment designation, the State of Minnesota was required to submit to the USEPA a revised SIP for the area within 18 months from January 6, 1992, which was the effective date of the redesignation.

The State submitted to USEPA, a SIP revision and a request for redesignation to attainment, dated June 22, 1993. The submittal was determined to be complete, in accordance with the requirements found in 40 CFR part 51, appendix V, on September 1, 1993. The submittal consisted of an administrative order which includes specific information pertaining to emission limits and operating restrictions, compliance demonstrations, and recording/reporting requirements. In addition, the submittal contained technical support pertaining to the attainment demonstration and ambient air monitoring data. Initial review of the proposed SIP revision identified several issues which needed to be addressed by the State before the revision could be approved. The issues were detailed in an April 8, 1994, letter from George Czerniak, Chief, Air Enforcement Branch, USEPA, to David Thornton, Administrator, Program Development and Air Analysis Section, MPCA. The issues involved clarification of language pertaining to source descriptions and sweeping requirements and additional information regarding negative pressure testing methodology and stack testing conditions. The issues identified in the April 8, 1994, letter were adequately

addressed by the State and an amended administrative order, dated September 13, 1994, was submitted to USEPA. The remainder of this rulemaking summarizes USEPA's review of the Minnesota lead SIP revision package, followed by a review of the request for redesignation, and then the final rulemaking action.

II. Analysis of SIP Revision Submittal

The State SIP revision submittal consisted of four major sections: (1) The completeness review material; (2) the SIP revision request providing background information and citing statutory requirements; (3) materials from the MPCA including the administrative order issued to Gopher Smelting and Refining Company and public hearing material; and (4) technical information supporting the attainment demonstration. This section will discuss the modeling analysis of the attainment demonstration, provisions of the administrative order, and whether the submittal meets the requirements of sections 172(c), 191, and 192, of the CAA. Section 172(c), pertaining to nonattainment plan provisions, and sections 191 and 192 pertaining to lead nonattainment plan deadlines and attainment dates.

Administrative Order Provisions

The administrative order submitted by MPCA on June 22, 1993, was amended, pursuant to comments by USEPA, on September 13, 1994. The comments were identified in a previous section. The following analysis refers to the amended administrative order.

Emission Limits and Operating Restrictions

Gopher Smelting emits lead through two stacks: Emission points 1 and 3. Emissions point 1 is limited to no more than 7000 micrograms of lead per dry standard cubic meter ($\mu\text{g}/\text{dscm}$) (0.00306 grains per dry standard cubic foot); emission point 3 is limited to no more than 5720 $\mu\text{g}/\text{dscm}$ (0.00250 grains per dry standard cubic foot). In addition, emission points 1 and 3 are subject to a 5 percent opacity limit.

The Gopher Smelting facility is also subject to numerous operating restrictions. These restrictions are designed to control fugitives from building openings, reentrained traffic dust, and wind erosion. Additionally, Gopher Smelting must store slag material inside the facility building and must apply water as a suppressant when the material is transported. Gopher Smelting must store other raw material inside the facility building. Further operating restrictions affect the

maintenance of air pollution control equipment.

Compliance Demonstration

Gopher Smelting must demonstrate compliance with the emission limits and operating restrictions by annual stack tests and opacity tests, negative pressure testing, inspections, and recordkeeping.

Gopher Smelting will demonstrate compliance with the operating restrictions to control fugitives through negative pressure testing and mandatory monthly inspections of vegetative cover and railway ballast and pavement to insure cover is continuous. Additionally, the administrative order requires regularly scheduled inspections and maintenance of control monitoring equipment and property access restrictions.

Reporting

Pursuant to the administrative order, the Company is required to report the results of any performance stack test as well as report each shutdown or breakdown of any control equipment or process equipment if that process equipment shutdown causes increased lead emissions.

Contingency Measures

Section 172(c)(9) of the Clean Air Act defines contingency measures as measures in a SIP which are to be implemented if an area fails to make reasonable further progress or to attain the NAAQS by the applicable attainment date. These measures should become effective without further action by the State or the Administrator and should consist of available control measures that are not included in the primary control strategy.

The administrative order contains contingency measures which shall be implemented by the Company within 30 days following notification by the MPCA or USEPA. Since the submittal provides for immediate attainment, it therefore satisfies reasonable further progress requirements. Implementation of the contingency measures would result from a finding that the area has failed to attain the NAAQS. The measures consist of increased frequency (twice daily) sweeping with a vacuum equipped road sweeper over areas that are normally daily swept and daily sweeping with a vacuum sweeper over areas that are normally swept on a weekly basis.

Modeling Analysis

In order to demonstrate that the limits and restrictions imposed by the administrative order are sufficient to

demonstrate attainment of the National Ambient Air Quality Standards (NAAQS) for lead, air dispersion modeling must be conducted. The dispersion modeling accompanying this submittal was performed using the Industrial Source Complex—Long Term (ISCLT2) model, version 92062. The modeling methodology used was compared against the guidance contained in the "Guideline on Air Quality Models (Revised)"; July 1986, including Supplement A.

The Gopher Smelting and Refining Company facility is located just south of St. Paul in Egan, Minnesota. The modeling analysis used five years (1985 through 1989) of surface meteorological data from the Minneapolis/St. Paul National Weather Service station, and upper air data from the St. Cloud, Minnesota, National Weather Service station. The data sets are representative of the meteorological conditions at Gopher Smelting.

The process sources at Gopher Smelting which discharge lead into the atmosphere are: Two reverberatory furnaces, a blast furnace, six refining kettles, a flue dust agglomeration furnace, a scrap dryer for the feed desulfurization system, and the central vacuum system. Fugitive emissions are also generated from raw material handling. Lead emissions from these sources are vented to four dust collectors (baghouses or cartridge filters). The lead emissions passing through these dust collectors are emitted through two stacks.

The dispersion modeling also took into account fugitive emissions generated from vehicular traffic at the facility as well as emissions generated by wind erosion of the area surrounding the facility. The lead emissions from unpaved areas at the facility were estimated using the "PM10 Open Fugitive Dust Source Computer Model" package distributed by USEPA. The lead content of emissions due to wind erosion was based on soil sample analyses conducted at the facility. Snowcover was assumed for the months of November through March, therefore fugitives from grassy areas was considered to be zero for these months.

The receptor grid used in the analysis consisted of a cartesian coordinate system with various spacing resolutions. After initial screening runs with receptor grids extending as far as 50 kilometers, a refined receptor grid, with 100 meter spacing, was established for a 1.0 kilometer square area surrounding the facility. Lead impacts at the fenceline of the property were modeled.

Background levels of lead were estimated in order to consider the

contribution to the total ambient air concentration made by sources other than Gopher Smelting. The background value was determined using a wind direction analysis which identified when air monitors were upwind of the Gopher Smelting Facility. The resulting value of 0.11 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) is representative of background lead concentrations in the area. The background concentration was added to the maximum modeled concentration for a total maximum lead concentration of 0.97 $\mu\text{g}/\text{m}^3$. This is well below the NAAQS value of 1.5 $\mu\text{g}/\text{m}^3$.

General Statutory Requirements

The purpose of this section is to discuss whether the SIP revision submittal meets the statutory requirements set forth in the Clean Air Act. The Gopher Smelting area of Dakota County, Minnesota is designated nonattainment for lead. Therefore, the SIP for this area must meet the applicable requirements of Subpart 1 and 5 of Part D of Title 1 of the Clean Air Act, specifically, Sections 172(c), 191, and 192.

Section 172(c)(1) states that Part D plans must require reasonably available control measures, including reasonably available control technology (RACT). The submittal includes modeling which demonstrates that the Gopher Smelting area of Dakota County will achieve attainment of the lead NAAQS with the control measures fully implemented. The control measures were required to be fully implemented on June 22, 1993 (the effective date of the order). Consequently, the application of additional available measures would not result in attainment any faster. Therefore, the control measures included in the SIP revision satisfy the RACT requirements.

Section 172(c)(2) states that plans shall require reasonable further progress. The Minnesota submittal provides for immediate attainment.

Section 172(c)(3) requires a suitable emission inventory. A suitable inventory of actual and allowable lead emissions from the Gopher Smelting facility was provided in Attachment C.1 of the submittal.

Section 172(c)(4) mandates that any stationary source growth margin included in the submittal be expressly identified and quantified. The submittal provides for a zero growth margin.

Section 172(c)(5) mandates a suitable permit program for new and modified major stationary sources. A new source permitting program for nonattainment areas has been approved by USEPA on April 4, 1994 (59 FR 21939). In addition,

MPCA has been delegated authority to implement the Federal Prevention of Significant Deterioration rules in attainment areas.

Section 172(c)(6) requires enforceable limitations sufficient to provide for attainment. The administrative order contains emission and operating limits which, when implemented, provide for attainment.

Section 172(c)(7) mandates satisfaction of Section 110(a)(2). The USEPA has determined that the submittal meets the applicable provisions of Section 110(a)(2).

Section 172(c)(8) states that the Administrator, in some circumstances, may allow the use of equivalent modeling emission inventory, and planning procedures. In the Gopher Smelting submittal, no equivalent techniques were used for modeling, emission inventory, or planning procedures.

Section 172(c)(9) requires the plan to provide for implementation of specific measures to be undertaken if the area fails to make reasonable further progress or to attain the primary NAAQS by the attainment date applicable under this part (i.e., contingency measures). The administrative order for Gopher Smelting contains measures to be taken if the area fails to attain the NAAQS. The administrative order provides for immediate attainment which precludes the need for a schedule by which the company would demonstrate reasonable further progress toward attainment. Therefore, any future violations of the NAAQS in the area would require the Company to implement the contingency measures.

Section 191(a) requires a State with an area designated as nonattainment subsequent to the date of enactment of the CAA, to submit an applicable plan to the Administrator within 18 months. A part of Dakota County, Minnesota was designated nonattainment for lead, effective January 6, 1992. The SIP revision was submitted on June 23, 1993; in accordance with the 18 month schedule.

Section 192(a) requires that a plan submitted pursuant to section 191(a) provide for attainment of the relevant standard no later than 5 years from the date of the nonattainment designation. The limits and restrictions in the Minnesota lead plan revision are effective immediately and have been demonstrated to provide for immediate attainment.

III. Analysis of the Redesignation Request

The State redesignation request consisted primarily of a maintenance

plan and air quality monitoring data. The request also referenced the provisions and technical information in the SIP revision submittal. The State submitted this information to comply with title I, section 107(d)(3)(E) of the CAA, which requires that USEPA determine whether certain criteria have been met before a redesignation of a nonattainment area to attainment can be promulgated. The CAA criteria and the State responses are discussed below.

Redesignation Request Requirements

Section 107(d)(3)(E)(i) requires a determination of whether the area has attained the NAAQS. The State used both air quality monitoring data and a dispersion modeling analysis to show that the area has attained the NAAQS for lead of 1.5 $\mu\text{g}/\text{m}^3$ based on a quarterly average.

Monitoring data for four ambient air monitors was included in the June 22, 1993, redesignation submittal. Additional ambient air monitoring data was submitted by the State on December 3, 1993. The additional data set replaced some 1992 data for two monitors due to problems identified by the State with the testing method used (flameless atomic absorption). The revised 1992 data was analyzed using flame atomic absorption (atomic absorption using an air-acetylene flame is the 40 Code of Federal Regulations (CFR) Part 50 Appendix G reference method). The flame atomic absorption method had much better recovery results with spiked samples of lead. The monitors are all located near the Gopher facility. The data collected from the four monitors has been quality assured according to the procedures specified in 40 (CFR) Part 58, and is submitted to USEPA Aerometric Information Retrieval System (AIRS).

The Lead Guideline Document (EPA-452/R-93-009), April 1993, states that in demonstrating, through monitoring data, that an area is attaining the lead NAAQS, the area must show no exceedances on a quarterly basis. Based on a April 21, 1983, memorandum from Meyers, S., Office of Air Quality Planning and Standards, the demonstration should consist of "the most recent eight quarters of quality-assured representative air quality data." The State has submitted ambient monitoring data for the period from first quarter 1990 to the third quarter 1993. The first quarter of 1990 shows the NAAQS violation which precipitated the nonattainment designation. No violations of the NAAQS for lead have been recorded at any of the monitors since that time.

The State also submitted an air dispersion modeling analysis to demonstrate that the Gopher facility, with the emission limits and operating restrictions applied, attains the NAAQS for lead. The modeling demonstration was an integral part of the proposed SIP revision submittal and has been assessed as part of the regulatory review process pertaining to the SIP revision.

The dispersion modeling accompanying the submittal was performed using the Industrial Source Complex—Long Term (ISCLT2) model, version 92062. The modeling methodology used was compared against the guidance contained in the "Guideline on Air Quality Models (Revised)"; July 1986. The modeling analysis used surface meteorological data from the Minneapolis/St. Paul National Weather Service station, and upper air data from the St. Cloud, Minnesota, National Weather Service station. The data sets are considered to be representative of the meteorological conditions at Gopher Smelting. The sources that were modeled included both process and fugitive. Concentrations of lead were predicted around the Gopher facility through the use of a receptor grid with 100 meter spacing near identified areas of maximum concentrations. Background levels of lead, determined from the ambient air monitors, were added to the maximum modeled concentration. The resulting value of 0.97 $\mu\text{g}/\text{m}^3$ is well below the NAAQS value of 1.5 $\mu\text{g}/\text{m}^3$.

Based on the monitoring and modeling information included in the June 22, 1993 proposed SIP revision and redesignation request submittal, USEPA has determined that the State has demonstrated that the area around the Gopher facility, which encompasses the current nonattainment area, has attained the NAAQS for lead.

Section 107(d)(3)(E)(ii) states that USEPA may not promulgate a redesignation request to attainment unless USEPA has fully approved the area SIP under section 110(k). The June 22, 1993 package consisted of a proposed SIP revision and a redesignation request. The SIP revision was submitted to meet the Clean Air Act requirements of Title I, Part D. The SIP revision was discussed earlier in this notice and is being approved in this notice.

Section 107(d)(3)(E)(iii) states that USEPA may not promulgate a redesignation request to attainment unless USEPA 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." In the first quarter of 1990, three of the four ambient air monitors sited around the Gopher facility recorded a violation of the lead NAAQS. Lead violations were also recorded in the fourth quarter of 1988 and the second quarter of 1989. As a result, the area near the Gopher facility was designated nonattainment, effective on January 6, 1992. An investigation into the cause of the violations concluded that fugitive emissions from process sources and also from general work practices were the primary reason for the high monitored values. The Gopher Smelting and Refining Company implemented a program that included improved materials handling procedures and work practices. These initial procedures and practices, among other controls, are included in the Federally enforceable Administrative Order, which was discussed earlier. No violations of the lead NAAQS have been recorded at any of the ambient air monitors surrounding the Gopher facility since the first quarter of 1990. The State has reasonably attributed the improvement in air quality to the changes in work practices at the Gopher facility. Additionally, the Gopher facility has installed control equipment (i.e., baghouses and a negative pressure system vented through cartridge filters) to further limit process fugitive emissions. The operation, testing, and maintenance of this control equipment is required in the administrative order for the facility. The administrative order for the Gopher facility has no expiration date. Therefore, USEPA agrees with the State that the improvement in air quality over the last four years in the nonattainment area surrounding the Gopher facility is attributable to permanent and enforceable lead emission reductions.

Section 107(d)(3)(E)(iv) states that USEPA may not promulgate a redesignation request to attainment unless USEPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A. The redesignation request submitted on June 22, 1993 by the Minnesota Pollution Control Agency (MPCA), was accompanied by a proposed SIP revision affecting the primary lead source in the nonattainment area. The measures required in the proposed SIP revision (i.e., administrative order for Gopher Smelting and Refining Company), provided for attainment of the lead NAAQS as demonstrated by the

modeling analysis performed for the area. The limits and operating restrictions detailed in the administrative order do not expire. Furthermore, once the SIP revision is promulgated, it cannot be revised without approval of USEPA. Therefore, attainment of the lead NAAQS has been projected for the required 10 year period as is discussed in Section 175A.

Section 175A(d) requires contingency provisions be submitted to assure that the State will promptly correct any violation of the lead standard which occurs after the area has been redesignated to attainment. The current monitoring network is continuing to operate in order to verify the attainment status of the area. The proposed SIP revision, discussed earlier, contained specific measures which the Gopher facility will implement, without further action to be taken by the State or USEPA, upon notification that a violation of lead NAAQS has occurred. These measures consist of sweeping with a wet vacuum sweeper areas that are swept daily and daily sweeping with a vacuum sweeper areas that are normally swept on a weekly basis. The contingency measures are designed to immediately reduce emissions from areas likely to be causing the violation. The administrative order became effective on June 22, 1993, and enforced by the authority of MPCA. The changes included in the amended administrative order, dated September 13, 1994, did not affect the contingency measures. Therefore, the limits and restrictions in the administrative order will have been implemented prior to promulgation of redesignation to attainment.

Section 107(d)(3)(E)(v) states that USEPA may not promulgate a redesignation request to attainment unless the State has met all the requirements applicable to the nonattainment area under section 110 and part D. The Gopher Smelting area of Dakota County, Minnesota is designated nonattainment for lead. Therefore, the SIP revision for this area must meet the requirements of Subpart 1 and 5 of Part D of Title 1 of the Clean Air Act, specifically Section 172(c) and Sections 191 and 192. Based on the regulatory review, the SIP revision is being approved as having satisfied the requirements of the applicable CAA sections.

IV. Rulemaking Action

This action has evaluated the approvability of the Minnesota Lead SIP revision submittal and request for redesignation to attainment for the area around Gopher Smelting and Refining Company, located in the city of Eagan,

Dakota County, Minnesota. It has been determined that the submittal meets the applicable requirements of the CAA.

Because U.S. EPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on December 19, 1994. However, if we receive notice by November 17, 1994 that someone wishes to submit adverse comments, then USEPA will publish a document that withdraws this action and will address the comments received in the final rule on the requested redesignation and SIP revision which have been proposed for approval in the proposed rules section of this **Federal Register**.

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

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). A revision to the SIP processing review tables was approved by the Acting Assistant Administrator for Office of Air and Radiation on October 4, 1993 (Michael Shapiro's memorandum to Regional Administrators). A future document will inform the general public of these tables. Under the revised tables this action remains classified as a Table 2 action. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. The USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continued in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, 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 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).

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 December 19, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air Pollution control, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control.

Dated: September 20, 1994.

Valdas V. Adamkus,
Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, 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 paragraph (c)(36) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(36) On June 22, 1993, and September 13, 1994, the State of Minnesota submitted revisions to its State Implementation Plan for lead for a portion of Dakota County.

(i) Incorporation by reference.

(A) For Gopher Smelting and Refining Company, located in the city of Eagan, Dakota County, Minnesota:

(1) An administrative order, dated, submitted, and effective June 22, 1993.

(2) Amendment One to the administrative order, dated, submitted, and effective, September 13, 1994.

(ii) Additional material.

(A) A letter from Charles W. Williams to Valdas V. Adamkus, dated June 22, 1993, with enclosures providing technical support (e.g., computer modeling) for the revisions to the State Implementation Plan for lead.

(B) A letter from Charles W. Williams to Valdas V. Adamkus, dated September 13, 1994, with enclosures providing technical support for the revised administrative order for Gopher Smelting and Refining Company.

PART 81—[AMENDED]

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

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

2. In § 81.324 the table "Minnesota Lead" is revised to read as follows:

§ 81.324 Minnesota.

* * * * *

MINNESOTA—LEAD

Designated area	Designation		Classification	
	Date	Type	Date	Type
Dakota County (part) . . . Lone Oak Road (County Road 26) to the north, County Road 63 to the east, Westcott Road to the south, and Lexington Avenue (County Road 43) to the west. Rest of State not designated.	Dec. 19, 1994			

* * * * *
[FR Doc. 94-25681 Filed 10-17-94; 8:45 am]
BILLING CODE 6560-60-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes In Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base (100-year) flood elevations are indicated on the following table and revise the Flood Insurance Rate (Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646-2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base (100-year) flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each

community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base (100-year) flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No

environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base (100-year) flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows: