

addition, the final disapproval starts the 24 month clock for the imposition of a section 110(c) Federal Implementation Plan. Finally, under section 110(m) the EPA has discretionary authority to impose sanctions at any time after a final disapproval.

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

As previously noted, the EPA received no adverse public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 1 to Table 3 under the processing procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214), and revisions to these procedures issued on October 4, 1993, in an EPA memorandum entitled "Changes to State Implementation Plan (SIP) Tables." The Office of Management and Budget has exempted this action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the 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).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Reporting and recordkeeping

requirements, Volatile organic compounds.

Dated: September 14, 1994.

**Michelle D. Jordan,**

*Acting Regional Administrator.*

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(78) to read as follows:

##### § 52.2570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(78) On November 15, 1993, the State of Wisconsin submitted a revision to the State Implementation Plan (SIP) for the implementation of a motor vehicle inspection and maintenance (I/M) program in the Milwaukee-Racine and Sheboygan ozone nonattainment areas. This revision included 1993 Wisconsin Act 288, enacted on April 13, 1994, Wisconsin Statutes Sections 110.20, 144.42, and Chapter 341, Wisconsin Administrative Code Chapter NR 485, SIP narrative, and the State's Request for Proposal (RFP) for implementation of the program.

(i) Incorporation by reference.

(A) 1993 Wisconsin Act 288, enacted on April 13, 1994.

(B) Wisconsin Statutes, Sections 110.20, 144.42, and Chapter 341, effective November 1, 1992.

\* \* \* \* \*

3. Section 52.2569 is added to read as follows:

##### § 52.2569 Identification of plan-conditional approval.

(a) Revisions to the plan identified in § 52.2570 were submitted on the date specified.

(1)-(3) (Reserved)

(4) On November 15, 1993, and July 28, 1994, the Wisconsin Department of Natural Resources (WDNR) submitted enhanced inspection and maintenance (I/M) rules and a Request for Proposal (RFP) as a revision to the State's ozone State Implementation Plan (SIP). The EPA conditionally approved these rules and RFP based on the State's commitment to amend its rules and sign its final I/M contract to address deficiencies noted in to the final conditional approval. These final, adopted rule amendments and final, signed contract must be submitted to the EPA within one year of the EPA's conditional approval.

(i) Incorporation by reference.

(A) Wisconsin Administrative Code, Chapter NR 485, effective July 1, 1993.

(ii) Additional materials.

(A) SIP narrative plan titled "Wisconsin—Ozone SIP—Supplement to 1992 Inspection and Maintenance Program Submittal," submitted to the EPA on November 15, 1993.

(B) RFP, submitted along with the SIP narrative on November 15, 1993.

(C) Supplemental materials, submitted on July 28, 1994, in a letter to the EPA.

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#### 40 CFR Parts 52 and 81

[ME-5-1-6684; A-1-FRL-5127-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; Presque Isle Attainment Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving revisions to the State implementation plan (SIP) submitted by the State of Maine to satisfy certain federal requirements for the Presque Isle nonattainment area. The purpose of the federal requirements is to bring about the attainment of the national ambient air quality standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10). In addition, EPA is modifying the borders of the Presque Isle nonattainment area to more closely contain the actual area where PM10 concentrations approach ambient standards. EPA also is approving an update of Maine's emergency episode regulation applicable statewide. This action is being taken under the Implementation Plans Section of the Clean Air Act.

**EFFECTIVE DATE:** This rule will become effective on February 13, 1995.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection by appointment during normal business hours at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA 02203; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE-131), Washington, DC 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

**FOR FURTHER INFORMATION CONTACT:** Matthew B. Cairns, (617) 565-4982.

**SUPPLEMENTARY INFORMATION:** On May 10, 1994 (59 FR 24096-24100), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Maine. The NPR proposed approval of Presque Isle's PM10 attainment plan which Maine submitted as a formal SIP revision on August 14, 1991. This submittal also included a request to modify the borders of the Presque Isle nonattainment area. In addition, Maine submitted revisions to the emergency episode regulations on October 22, 1991. These submittals complete the attainment plan for Presque Isle by meeting the applicable requirements—which were due to EPA by November 15, 1991—to demonstrate attainment of the PM10 NAAQS by December 31, 1994 and maintenance of that standard for three years beyond that. These requirements are outlined in Part D, Subparts 1 and 4 of the Act and elaborated upon in EPA's "General Preamble for the Implementation of Title I of the Clean Air Act" [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Specific requirements and the rationale for EPA's proposed action are detailed and explained in the NPR and will not be restated here. No public comments were received on the NPR. Interested parties should consult the NPR, the Technical Support Document (TSD) dated January 2, 1994, or Maine's submission for details on the aspects of the Presque Isle SIP.

#### Maine's SIP Revision

The PM10 control measures contained in the SIP are embodied in Part B of a memorandum of understanding (MOU) which the Maine Department of Environmental Protection (DEP) entered into on March 11, 1991, with the City of Presque Isle and the Maine Department of Transportation. This MOU is included in Maine's submission, will be approved into the SIP, and therefore becomes enforceable by EPA. Under the MOU, the city must use improved (i.e., low entrainment) antiskid materials on its roads. Between December 1 and May 1 each year, as a surrogate for PM10 emission limitations, the city must also maintain silt loadings on dry roads below 10 g/m<sup>2</sup>. Part B lists the streets where these requirements apply. DEP or EPA may require Presque Isle to test antiskid material stockpiles by methods prescribed in Part B, keep records, and report records and test results. Part B also specifies the method DEP must use to determine compliance by the city with the silt loading limit.

DEP has also revised its Chapter 109 "Emergency Episode Regulation." The regulation now contains the PM10 alert, warning, and emergency levels that appear in EPA's "Example Regulations for Prevention of Air Pollution Emergency Episodes" (Appendix L to part 51). The regulation continues to apply statewide and with its adoption DEP has met all section 110 requirements that currently apply to the Presque Isle PM10 nonattainment area.

Lastly, DEP's submission includes a request that EPA change the present borders of the nonattainment area. The present nonattainment area consists of township boundaries enclosing 80 square miles. The new area will comprise a series of streets bounding an area of roughly 0.6 square miles. EPA believes it is appropriate because these new borders more closely contain the actual area where PM10 concentrations approach ambient standards.

#### Final Action

The EPA is approving the plan revisions submitted to EPA for the Presque Isle nonattainment area on August 14, 1991. These revisions include Part B of a memorandum of understanding which DEP entered into on March 11, 1991 with the City of Presque Isle and the Maine Dept of Transportation. This MOU imposes RACM. In addition these revisions to the SIP include an update to Chapter 109, "Emergency Episode Regulations," effective and applicable statewide on September 16, 1991. EPA is also altering the boundaries of the Presque Isle PM10 nonattainment area, as requested by DEP, to more closely contain the actual area where PM10 concentrations approach ambient standards. Among other things, the State of Maine has demonstrated that the Presque Isle moderate PM10 nonattainment area will attain the PM10 NAAQS by December 31, 1994 and maintain air quality levels below the NAAQS at least until January 1, 1998.

As noted in the NPR, contingency measures for the Presque Isle nonattainment area were not due to EPA until November 15, 1993. Maine submitted this attainment plan to EPA on August 14, 1991 and contingency measures were not a part of the attainment plan. On June 1, 1994, Maine submitted to EPA a request to redesignate Presque Isle to attainment; this redesignation request included the contingency measures required both of the initial moderate PM10 nonattainment areas and for redesignation. EPA is processing this attainment plan and the recently submitted redesignation request

(including the contingency measures) in separate rulemaking notices. EPA will determine the adequacy of any such submittal as appropriate and act on those submittals in separate actions.

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. USEPA*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future notice will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. The U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in

light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 March 13, 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).)

**List of Subjects**

**40 CFR Part 52**

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

**40 CFR Part 81**

Air pollution control, National parks, Wilderness areas.

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

Dated: December 4, 1994.

**John P. DeVillars,**

*Regional Administrator, Region I.*

Parts 52 and 81 of chapter I, title 40 of the Code of Federal Regulations are 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 U—Maine**

2. Section 52.1020 is amended by adding paragraph (c)(28) to read as follows:

**§ 52.1020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(28) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on August 14 and October 22, 1991.

(i) Incorporation by reference.  
(A) Letters from the Maine Department of Environmental Protection

dated August 14 and October 22, 1991 submitting revisions to the Maine State Implementation Plan.

(B) Revisions to Chapter 109 of the Maine Department of Environmental Protection Regulations, "Emergency Episode Regulations," effective in the State of Maine on September 16, 1991.

(C) Part B of the Memorandum of Understanding which the Maine Department of Environmental Protection (DEP) entered into (and effective) on March 11, 1991, with the City of Presque Isle, and the Maine Department of Transportation.

(ii) Additional materials.

(A) An attainment plan and demonstration which outlines Maine's control strategy for attainment of the PM10 NAAQS and implements and meets RACM and RACT requirements for Presque Isle.

(B) Nonregulatory portions of the submittal.

\* \* \* \* \*

3. In § 52.1031 table 52.1031 is amended by adding a new citation to entry "109" to read as follows:

**§ 52.1031 EPA-approved Maine regulations.**

\* \* \* \* \*

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by state	Date approved by EPA	Federal Register citation	52.1020	Comments
109	Emergency Episode Regulation.	8/14/91	Jan. 12, 1995	[Insert FR citation from published date].	(c)28	Revisions which incorporate the PM10 alert, warning, and emergency levels.

**PART 81—[AMENDED]**

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

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

2. Section 81.320 is amended by revising the table for "Maine.—PM10

Nonattainment Areas" to read as follows:

**§ 81.320 Maine.**

\* \* \* \* \*

**MAINE—PM10 NONATTAINMENT AREAS**

Designated area	Designation		Classification	
	Date	Type	Date	Type
Aroostook County: City of Presque Isle (part) 1. That area bounded by Allen Street from its intersection with Main Street east to Dudley Street, Dudley Street south to Cedar Street, Cedar Street west to Main Street, Main Street south to Kennedy Brook, Kennedy Brook northwest crossing Presque Isle Stream to Coburn Street, Coburn Street northwest to Mechanic Street, Mechanic Street west to Judd Street, Judd Street northeast to State Street, State Street northwest to School Street, School Street northeast to Park Street, Park Street east to Main Street.	11/15/90	Nonattainment	11/15/90	Moderate.

MAINE—PM10 NONATTAINMENT AREAS—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
Rest of State.....	11/15/90	Unclassifiable .....		

<sup>1</sup> This definition of the nonattainment area redefines its borders from the entire City of Presque Isle to this area of 0.6 square miles which circumscribe the area of high emission densities and ambient PM10 levels. (January 12, 1995 and FR citation from published date.)

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**DEPARTMENT OF DEFENSE**

**48 CFR Parts 206 and 237**

**Defense Federal Acquisition Regulation Supplement; Personal Service Contracts**

**AGENCY:** Department of Defense (DoD).  
**ACTION:** Interim rule with request for public comments.

**SUMMARY:** The Director of Defense Procurement is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to establish procedures for contracting for personal services with individuals for health care services.

**DATES:** *Effective Date:* January 5, 1995.  
*Comment Date:* Comments on the interim rule should be submitted to the address shown below on or before March 13, 1995 to be considered in formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Ms. Linda S. Holcombe, PDUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 94-D302 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda S. Holcombe, (703) 602-0131.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Section 712 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) requires the Secretary of Defense to establish procedures for entering into personal service contracts under 10 U.S.C. 1091 to carry out health care responsibilities in medical/dental treatment facilities. Section 704 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) provides authority for the Secretary of Defense to enter into personal service contracts under 10 U.S.C. 1091 to provide the

services of clinical counselors, family advocacy program staff, and victim's services representatives.

**B. Regulatory Flexibility Act**

The interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because it may, to the extent such authority is exercised by the Secretary of Defense, reduce competitive participation by any entities, large or small, which perform, or are interested in performing, personal service contracts under 10 U.S.C. 1091 to carry out health care responsibilities. Using these procedures for selecting sources for health care services, business entities other than individuals are not solicited and cannot receive contract awards. A copy of the Initial Regulatory Flexibility Analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Initial Regulatory Flexibility Analysis may be obtained from Ms. Linda S. Holcombe, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. The interim rule applies to both large and small businesses. Comments are invited from small businesses and other interested parties. Comments from small entities will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite DFARS Case 94-D302 in all correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the interim rule does not impose reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

**List of Subjects in 48 CFR Parts 206 and 237**

Government procurement.  
**Claudia L. Naugle,**  
*Deputy Director, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 206 and 237 are amended to read as follows:

1. The authority citation for 48 CFR Parts 206 and 237 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

**PART 206—COMPETITION REQUIREMENTS**

2. A new subpart 206.1 is added to read as follows:

**Subpart 206.1—Full and Open Competition**  
Sec.  
206.102 Use of competitive procedures.

**Subpart 206.1—Full and Open Competition**

**206.102 Use of competitive procedures.**  
(d) *Other competitive procedures.*  
The procedures in 237.104(b)(ii) are competitive procedures.

**PART 237—SERVICE CONTRACTING**

3. Section 237.104 is amended by revising paragraph (b)(ii) to read as follows:

**237.104 Personal services contracts.**  
(b)(i) \* \* \*  
(ii) Personal service contracts for health care are authorized by 10 U.S.C. 1091.

(A) This authority may be used to acquire—  
(1) Direct health care services provided in medical treatment facilities; and

(2) Services of clinical counselors, family advocacy program staff, and victim's services representatives to members of the Armed Forces and covered beneficiaries who require such services, provided in medical treatment facilities or elsewhere. Persons with whom a personal services contract may be entered into under this authority include clinical social workers, psychologists, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization.

(B) Sources for personal service contracts with individuals under the authority of 10 U.S.C. 1091 shall be