4. In § 3.301(c), revise the heading to read as follows: ''*Specific applications; willful misconduct.*''

5. In § 3.301(c)(3), after the third sentence, add a new sentence in parenthesis to read as follows: ''(See paragraph (d) of this section regarding service connection where disability or death is a result of abuse of drugs.)''; and in the fourth sentence, remove the words ''Similarly, where'' and add, in their place, the word ''Where''.

6. In § 3.301, add a new paragraph (d) and an authority citation to read as follows:

§ 3.301 Line of duty and misconduct.

* * * * *

(d) *Line of duty; abuse of alcohol or drugs.* An injury or disease incurred during active military, naval, or air service shall not be deemed to have been incurred in line of duty if such injury or disease was a result of the abuse of alcohol or drugs by the person on whose service benefits are claimed. For the purpose of this paragraph, alcohol abuse means the use of alcoholic beverages over time, or such excessive use at any one time, sufficient to cause disability to or death of the user; drug abuse means the use of illegal drugs (including prescription drugs that are illegally or illicitly obtained), the intentional use of prescription or non-prescription drugs for a purpose other than the medically intended use, or the use of substances other than alcohol to enjoy their intoxicating effects.

(Authority: 38 U.S.C. 105(a))

[FR Doc. 95–12644 Filed 5–23–95; 8:45 am]

BILLING CODE 8320–01–P

38 CFR Part 3

RIN 2900–AH38

Examinations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to reflect a statutory change which authorizes VA to accept the report of a private physician's examination that is otherwise adequate for rating purposes to establish entitlement to compensation or pension benefits.

EFFECTIVE DATE: This amendment is effective November 2, 1994, the date that Public Law 103–446, the Veterans' Benefits Improvements Act of 1994, became effective.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: On November 2, 1994, the Veterans' Benefits Improvements Act of 1994 was signed into law. Section 301 of that statute created 38 U.S.C. 5125, which authorizes the Secretary of Veterans Affairs to accept the report of a private physician's examination that is otherwise adequate for rating purposes to establish entitlement to compensation or pension benefits. This document amends 38 CFR 3.157, 3.326, 3.327, and 3.352 in order to reflect that statutory authority.

38 CFR 3.157(b)(2) is amended to remove the requirement that a private physician's statement be confirmed by a VA examination prior to granting service connection for a disability. 38 CFR 3.326(d) is amended to show that a private physician's statement may be accepted for rating any compensation or pension claim as long as it is adequate for rating purposes. 38 CFR 3.327(b)(1) is amended to remove the requirement that at least one VA examination be made in every case in which compensation benefits are awarded. 38 CFR 3.352(b)(1) is amended to remove the requirement that a veteran's need for the special aid and attendance benefit under 38 U.S.C. 1114(r) must be determined by a Department of Veterans Affairs physician.

Administrative Procedure Act

This final rule amends VA regulations merely to reflect statutory provisions. Accordingly, there is a basis for dispensing with prior notice and comment and for dispensing with a 30-day delay of the effective date.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities since it merely reflects a statutory change.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: May 17, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.157 [Amended]

2. In § 3.157, the last sentence in paragraph (b)(2) is removed.

3. In § 3.326, paragraph (d) is revised to read as follows:

§ 3.326 Examinations.

* * * * *

(d) A statement from a private physician that includes clinical manifestations and substantiation of diagnosis by findings of diagnostic techniques generally accepted by medical authorities, such as pathological studies, X-rays, and laboratory tests as appropriate, may be accepted for rating any claim without further examination, provided it is otherwise adequate for rating purposes.

(Authority: 38 U.S.C. 5125)

§ 3.327 [Amended]

4. In § 3.327, the first two sentences in paragraph (b)(1) are removed.

§ 3.352 [Amended]

5. In § 3.352, paragraph (b)(1)(iv) is removed.

[FR Doc. 95–12707 Filed 5–23–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Ky–83–6927a; FRL–5184–7]

Approval and Promulgation of Implementation Plans State: Kentucky Approval of Revisions to State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the state implementation plan (SIP) submitted by the Commonwealth of Kentucky through the Natural Resources

and Environmental Protection Cabinet (Cabinet). This revision will incorporate into the SIP an operating permit issued to the Calgon Carbon Corporation located in the Kentucky portion of the Ashland/Huntington ozone (O_3) nonattainment area. This permit will reduce the emissions of volatile organic compounds (VOCs) by requiring reasonably available control technology (RACT).

DATES: This final rule will be effective July 10, 1995, unless adverse or critical comments are received by June 23, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Scott Southwick, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 316 St. Clair Mall, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Scott Southwick, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 x 4207. Reference file KY–083.

SUPPLEMENTARY INFORMATION: Section 182(b)(2) of the Clean Air Act as Amended in 1990 (CAA) requires states to implement RACT for moderate and above O_3 nonattainment areas for: (1) Each category of VOC sources in the area covered by a control technique guideline (CTG) issued between November 15, 1990, and the date of attainment of these areas; (2) All VOC sources in the area covered by any CTG before November 15, 1990; and (3) All other major stationary sources of VOC (non-CTG sources) that are located in the area. Kentucky has already met the requirements of items (1) and (2) of section 182(b)(2) (see 59 FR 32352 published on June 23, 1994). On November 23, 1994, the Cabinet submitted a revision to the SIP requiring VOC RACT through a permit issued to the Calgon Carbon Corporation (Calgon). This permit requires Calgon to comply with 1.8 lbs/hr emission limit in the reactivation furnace. The permit also requires Calgon to maintain a 1400 degrees fahrenheit temperature in the fireboxes and a coal residence time of 0.1 seconds in all bakers and activator burners.

Calgon is the only major source located in the Kentucky portion of the Ashland/Huntington O_3 nonattainment area not subject to a CTG. The approval of this revision will satisfy section 182(b)(2)(C) which requires RACT on all non-CTG sources located in the Ashland/Huntington moderate O_3 nonattainment area.

Final Action

The EPA is approving the Calgon Permit and 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 July 24, 1995 unless, within 30 days of its publication, 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 then 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 July 24, 1995.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 24, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed 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. Section 7410(a)(2).

List of Subjects in 40 CFR Part 52

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

Dated: March 21, 1995.

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 S—Kentucky

2. Section 52.920, is amended by adding paragraph (c)(78) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(78) Operating Permit requiring VOC RACT for Calgon Corporation in the Kentucky portion of the Ashland/Huntington ozone nonattainment area, submitted November 11, 1994.

(i) Incorporation by reference. Natural Resources and Environmental Protection Cabinet; Kentucky Department for Environmental Protection; Division for Air Quality; Permit 0–94–020; Calgon Carbon Corporation, effective on November 17, 1994.

(ii) Other material. Letter of November 23, 1994, from the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet.

[FR Doc. 95–12617 Filed 5–23–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MN30–1–6215a; FRL–5183–8]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Minnesota submitted a revision intended to simplify and update the rules in its State Implementation Plan (SIP). These revisions included deleting regulations that are redundant with Federal New Source Performance Standards (NSPS) regulations, removing odor regulations and other similar regulations from the SIP, and recodifying the regulations. In the case of open burning, the State requested removal of the regulations from the SIP or, in the alternative, replacing these regulations with statutes that regulate open burning. USEPA is replacing the open burning regulations in the SIP with the new statutes and is approving all other revisions requested by the State.

EFFECTIVE DATE: This action will be effective July 24, 1995 unless adverse or critical comments are received by June 23, 1995. 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 SIP revision request and U.S. EPA's analysis are available for public inspection during normal business hours at the following addresses: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604; and Jerry Kurtzweg (6102), United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION:

I. Review of State Submittal

On November 23, 1993, the Minnesota Pollution Control Agency (MPCA) submitted a request to (1) eliminate a number of regulations that need not be included in the Minnesota State Implementation Plan (SIP), (2) recodify the remaining regulations, and (3) make miscellaneous other changes. Each of these types of revisions are discussed in separate sections below.

Elimination of Regulations

MPCA recommended elimination of several categories of regulations from the SIP. The category with the most regulations recommended for elimination are regulations that repeat the requirements for new sources established by the United States Environmental Protection Agency (USEPA) in various New Source Performance Standards (NSPS). Some of these regulations also govern emissions from ''existing sources,'' i.e. sources that existed before the effective date of or otherwise not subject to a relevant NSPS. Most of these regulations were submitted in 1981. In its 1982 rulemaking on these regulations, USEPA approved these regulations only for ''existing sources,'' reflecting concern that these regulations would either be unnecessary by virtue of being redundant with Federal NSPS or be detrimental by virtue of causing uncertainty as to which of conflicting State versus Federal provisions apply. In this context, ''existing sources'' should be considered not only to include sources that existed prior to the effective date of the NSPS but also to include sources that are newer but are not subject to the NSPS due to size or other reasons.

Minnesota's submittal refines the list of rules which, by USEPA's approach, should be removed from the SIP or applied only to ''existing sources.'' In the cases of regulations for portland cement plants, asphalt concrete plants, grain elevators, sulfuric acid plants, and nitric acid plants, the State has specified which portions of the relevant sets of rules regulate new sources and which portions regulate existing sources. In the cases of regulations for lead smelters and brass and bronze plants, there are no existing brass or bronze plants and the only existing lead smelter is subject to a separate more stringent administrative order in the SIP. Therefore, the regulations apply only to new sources and should be eliminated from the SIP in their entirety. In the cases of regulations for incinerators and sewage sludge incinerators, MPCA does not identify portions of the rules that only apply to new sources but comments that USEPA should state that the SIP only includes these rules as they apply to existing sources (which again may include newly constructed sources that are not subject to NSPS). USEPA concurs with Minnesota's list of which of these rules should be removed from the SIP, and is modifying the SIP accordingly.

A second set of regulations recommended for elimination concern odors and acid/base fallout. MPCA's submittal states that these regulations were not intended for purposes of achieving air quality standards or other Clean Air Act purposes and remain unnecessary for such purposes. Specifically, Minnesota requests on this basis that USEPA delete the set of regulations entitled Ambient Odor Control, the set entitled Limits for Animal Matter Odors, and the set entitled Limits on Acid, Base Emissions. These regulations were adopted around 1970 and were submitted and approved as part of a package that included all extant air pollution regulations. USEPA concurs with Minnesota's request and is removing these regulations from the SIP.

A third set of regulations recommended for elimination concern indirect sources. These regulations establish permitting requirements for the facilities such as highways, shopping malls, and airports that attract motor vehicles and thus indirectly cause mobile source emissions. These regulations were submitted in 1981 and approved by USEPA in 1982.