sufficient cause shown'' (described in the regulation as ''good cause''): (1) terminal illness and (2) extreme hardship which might be relieved in whole or in part if the benefits sought on appeal were granted.

The current regulation does not deal with the appeals which, due to administrative error, have not been properly processed, resulting in a significant delay in assignment of a docket number which does not, in turn, fairly represent that appeal's true place in the queue of cases waiting to be decided.

Further, with respect to the change in 1994 to the Board's docketing procedures described above, we have learned that some cases which were at regional offices awaiting hearings by traveling members of the Board under former 38 U.S.C. 7110 were not properly identified to the Board at the time of change. As a result, cases that should have numbers reflecting docketing in early 1994 may instead be assigned docket numbers reflecting mid- or late-1995 docketing.

To address these problems, this document amends the Rules of Practice to provide that ''good cause'' for advancing a case on the docket also includes administrative error which results in significant delay in docketing the appeal.

The Rules of Practice are also amended to provide that a motion to advance a case on the docket may be made by the Chairman, the Vice Chairman, the appellant, or the appellant's representative.

Finally, the Rules of Practice are amended to (1) delete the requirement that the Chairman make the decision on the motion to advance and (2) provide that, where a motion is received prior to the assignment of the appeal to an individual member or panel of members, the ruling on the motion will be by the Vice Chairman, who may delegate that authority to a Deputy Vice Chairman. This change is required because (1) 38 U.S.C. 7102(b), as added by Pub. L. No. 103–271, prohibits cases from being assigned to the Chairman as an individual member, and (2) to maintain consistency in the decisions on such motions.

This final rule consists of agency policy, procedure, or practice and, consequently, pursuant to 5 U.S.C. 553, is exempt from notice and comment and effective date provisions.

The Secretary hereby certifies that this final regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule would not directly affect any small entities. Only VA beneficiaries would be directly affected. Pursuant to 5 U.S.C. 605(b), this final regulation is therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

There are no Catalog of Federal Domestic Assistance numbers associated with this final rule.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: September 25, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

Subpart J—Action by the Board

2. In § 20.900, the first four sentences in paragraph (c), the seventh sentence in paragraph (c), and the authority citation at the end of the section are revised to read as follows:

§ 20.900 Rule 900. Order of consideration of appeals.

* * * * *

(c) *Advancement on the docket.* A case may be advanced on the docket if it involves an interpretation of law of general application affecting other claims or for other good cause. Examples of such good cause include terminal illness, extreme hardship which might be relieved in whole or in part if the benefits sought on appeal were granted, administrative error which results in significant delay in docketing the appeal, etc. Advancement on the docket may be requested by motion of the Chairman, the Vice Chairman, the appellant, or the appellant's representative. Such motions must be in writing and must identify the law of general application affecting other claims or other good cause involved. * * * Where a motion is received prior to the assignment of the case to an individual member or panel of members, the ruling on the motion will be by the Vice Chairman, who may delegate such authority to a Deputy Vice Chairman. * * *

(Authority: 38 U.S.C. 7107(a))

[FR Doc. 95–24501 Filed 10–3–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–076–1–7141a; FRL–5291–3]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 23, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). EPA is approving these revisions to rules 15A NCAC 2D .0501 Compliance With Emission Control Standards, .0516 Sulfur Dioxide Emissions From Combustion Sources, and .0530 Prevention Of Significant Deterioration. The intended effect of this revision is to clarify certain provisions and ensure consistency with requirements of the Clean Air Act.

DATES: This final rule is effective December 4, 1995 unless notice is received by November 3, 1995 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: Scott M. Martin, 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.

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.

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, 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 extension 4216.

SUPPLEMENTARY INFORMATION: On March 23, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions covering the adoption of amendments to rules 15A NCAC 2D .0501 Compliance With Emission Control Standards, .0516 Sulfur Dioxide Emissions From Combustion Sources, and .0530 Prevention Of Significant Deterioration.

Rule .0501 was amended to include a description of the sulfur dioxide stack testing compliance methods and to update referenced American Society for Testing and Materials (ASTM) methods. Rule .0516 was amended to clarify that the general sulfur dioxide emissions standard does not apply to spodumene ore roasting. Requirements for spodumene ore roasting are established in Rule .0527. Rule .0530 was amended to establish an increment level for PM–10, as required in 40 CFR 51.166, to replace the increment level for total suspended particulate. EPA is approving the amendments of rules 15A NCAC 2D .0501, .0516, and .0530 because these revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

Final Action

EPA is approving the above referenced revisions to the North Carolina SIP. This action is being taken without prior proposal because the EPA 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 December 4, 1995 unless, by November 3, 1995, 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 December 4, 1995.

Under section 307(b)(1) of the Clean Air Act (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 December 4, 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 Act, 42 U.S.C. 7607(b)(2)).

The Office of Management and Budget 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 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) and 7410 (k)(3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

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

Dated: August 25, 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 II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(86) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(86) The PM–10 rules, Stack Testing Methods and other miscellaneous

revisions to the North Carolina State Implementation Plan which were submitted on March 23, 1995.

(i) Incorporation by reference. Addition of new North Carolina rules 15A NCAC 2D .0501, .0516, and .0530 which were state effective on February 1, 1995.

(ii) Other material. None.

[FR Doc. 95–23819 Filed 10–3–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 271

[FRL–5311–7]

Wyoming; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Wyoming's application for final authorization.

SUMMARY: Wyoming has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). The United States Environmental Protection Agency (EPA) has reviewed Wyoming's application and has reached a final determination that Wyoming's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Wyoming to operate its program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for Wyoming shall be effective at 1:00 p.m. on October 18, 1995.

FOR FURTHER INFORMATION CONTACT: Marcella DeVargas, (8HWM–WM) 999 18th Street, Suite 500, Denver, Colorado 80202–2466, phone 303/293–1670.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. To qualify for final authorization, a State's program must (1) be ''equivalent'' to the Federal program, (2) be consistent with the Federal program and other State programs, and (3) provide for adequate enforcement. Section 3006(b) of RCRA, 42 U.S.C. 6926(b).

On July 17, 1995, Wyoming submitted an official application to obtain final authorization to administer the RCRA program. On July 27, 1995, EPA published a tentative decision announcing its intent to grant Wyoming final authorization. Further background on the tentative decision to grant authorization appears at 60 FR 38537, July 27, 1995.

Along with the tentative determination EPA announced the availability of the application for public comment and the date of a public hearing on the application. The public hearing was held on August 29, 1995.

EPA did not receive any written comments. At the public hearing, several oral comments were made expressing support for EPA's tentative determination. One commenter asked if the State had chosen to be more or less stringent than the Federal rules in regard to the RCRA publicly owned treatment works exclusion. The response was the State law requires the State to regulate the same universe of hazardous wastes as is regulated under RCRA, therefore, the State has adopted the federal exclusion for hazardous waste discharged to publicly owned treatment works. The commenter also suggested the Clean Water Act Pretreatment rules also be delegated to the State of Wyoming. Delegation of the pretreatment program is not the subject of this action today.

Because EPA Region VIII and the State worked closely to develop the authorization package, most EPA concerns were addressed before submittal of the application by the State. The State also conducted four (4) public meetings throughout the State, and solicited comments on the draft program description and the draft Memorandum of Agreement from facilities, industry organizations, and environmental groups.

Wyoming's program is ''broader in scope'' than the Federal program in two significant ways. First, Wyoming rules require an applicant for a permit to demonstrate fitness by requiring that the past performance of the applicant or any partners, executive officers, or corporate directors, be reviewed. Second, county commissions must approve certain hazardous waste management facilities, and certain hazardous waste management facilities must also obtain an industrial siting permit. These portions of Wyoming's program, because they are broader in scope, are not a part of the Federally approved program.

EPA will administer the RCRA permits or portion of permits or administrative orders it has issued to facilities in the State until they expire or are terminated. The State may issue comparable State permits in accordance with the procedures found in Chapter 3 of the Wyoming rules. For facilities without RCRA permits, or for facilities where the State makes technical changes prior to federal permits, the State will call in Part B permit applications.

The regulations under Section 7 of the Endangered Species Act (at 50 CFR Part 402) require that EPA consult with the United States Fish and Wildlife Service (the ''Service'') regarding this decision. EPA has done so and the Service has concurred with EPA's determination that this authorization is not likely to adversely affect listed species or critical habitat.

The Agency's general policy in authorizing state programs under various federal authorities has been to develop informal coordination procedures with the Service to ensure protection of listed species and critical habitat, and only to consult under section 7 of the ESA after authorization in those instances where EPA is itself the permitting agency subject to section 7 requirements. In addition, the Agency believes that issues related to protection of endangered species and habitat are most effectively addressed in the context of broader programmatic strategies worked out with the states, and EPA will continue to move in this direction with interested parties.

In the case of this RCRA base program authorization for Wyoming, EPA Region VIII and the State have agreed to work closely with the Service to address impacts to listed species or critical habitat that may result from the issuance of RCRA permits by the State. EPA Region VIII's decision to follow the processes described in the EPA/Wyoming MOA and correspondence with the Service does not subject EPA after authorization to the consultation requirements of the ESA, nor does it create any rights by any person to enforce the provisions of the ESA against EPA.

Today's decision to authorize the Wyoming hazardous waste regulatory program does not extend to ''Indian Country,'' as defined in 18 U.S.C. 1151, including the Wind River Reservation.

Should Wyoming decide in the future to apply for authorization of its hazardous waste program on Indian Country the State would have to provide an appropriate analysis of the State's jurisdiction to enforce in these areas. In order for a state (or Tribe) to satisfy this requirement, it must demonstrate to the EPA's satisfaction that it has authority either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law to enforce its laws against existing