B. Regulatory Flexibility Act

The Agency Head has certified that this proposed rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act. Any regulatory revision will only apply to labor organizations, and the Department has determined that labor organizations regulated pursuant to the statutory authority granted under the LMRDA do not constitute small entities. Therefore, a regulatory flexibility analysis is not required.

C. Paperwork Reduction Act

This proposed rule contains no information collection requirements for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 29 CFR Part 452

Labor unions.

Text of Proposed Rule

In consideration of the foregoing, the Department of Labor hereby amends part 452 of title 29, Code of Federal Regulations, as follows:

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

1. The authority citation for part 452 continues to read as follows:

Authority: Secs. 401, 402, 73 Stat. 532, 534 (29 U.S.C. 481, 482); Secretary's Order No. 2–93 (58 FR 42578).

2. Footnote 25 cited at the end of § 452.38(a) is revised to read as follows:

§ 452.38 Meeting attendance requirements.

[25] If a meeting attendance requirement disqualifies a large portion of members from candidacy, that large antidemocratic effect alone may be sufficient to render the requirement unreasonable. In *Doyle* v. *Brock*, 821 F.2d 778 (D.C. Circuit 1987), the court held that the impact of a meeting attendance requirement which disqualified 97% of the union's membership from candidacy was by itself sufficient to make the requirement unreasonable notwithstanding any of the other factors set forth in 29 CFR 452.38(a).

Signed in Washington, DC this 7th day of November, 1995.

Charles L. Smith,

Deputy Assistant Secretary.

[FR Doc. 95–28015 Filed 11–13–95; 8:45 am]

BILLING CODE 4510–86–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AH70

Duty Periods

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) adjudication regulations to clarify the status of individuals attending the preparatory schools of the United States Air Force Academy, the United States Military Academy, and the United States Naval Academy for purposes of compensation and pension eligibility. This amendment is necessary to reflect opinions of VA's General Counsel setting out the circumstances under which preparatory school attendance will constitute active duty or active duty for training for VA purposes.

EFFECTIVE DATE: This amendment is effective October 3, 1994, the date of the initial General Counsel opinion upon which it is based.

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: In most instances, an individual qualifies for VA compensation or pension by meeting the statutory definition of a ''veteran'' or by being the survivor of a ''veteran.'' 38 U.S.C. 101(2) and 38 CFR 3.1(d) state that a ''veteran'' is a person who served in the ''active military, naval, or air service,'' and who was discharged or released therefrom under conditions other than dishonorable.

The phrase ''active military, naval, or air service'' is defined in 38 CFR 3.6(a) as including ''active duty'' as well as certain periods of active- or inactive-duty training during which the individual was disabled or died. If the individual upon whose service the claim is based had ''active military, naval, or air service'' and was discharged under other than dishonorable conditions, that individual qualifies as a ''veteran.''

Under 38 U.S.C. 101(21)(D), service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy is considered ''active duty.'' A precedent opinion of the VA General Counsel (VAOPGCPREC 18–94) dated October 3, 1994, addressed the question of whether attendance at the United States Air Force Academy Preparatory School constituted ''active duty.'' (Such precedent opinions are binding in VA benefit decisions; see 38 CFR 3.101, 14.507(b), and 19.5.) The General Counsel noted that attendance at a service academy preparatory school does not constitute service as a cadet or midshipman at a service academy.

In VAOPGCPREC 18–94 the General Counsel held that an enlisted servicemember who is reassigned to the United States Air Force Academy Preparatory School without a release from active duty continues on ''active duty'' but that persons who enlisted directly from civilian life, a reserve component, or the Air National Guard for the sole purpose of attending the Air Force Academy Preparatory School are on ''active duty for training.'' The General Counsel found it significant that an enlisted servicemember who is disenrolled from a preparatory school prior to completion of the school program still has a military obligation to complete while an individual attending a preparatory school from the Reserves, National Guard, or civilian life is generally discharged from the service in the event of premature disenrollment.

In VAOPGCPREC 6–95 dated February 10, 1995, the VA General Counsel held that the analysis in VAOPGCPREC 18–94 for determining whether service at the United States Air Force Academy Preparatory School constitutes ''active duty'' is generally applicable to service consisting of attendance at the United States Military Academy Preparatory School and the United States Naval Academy Preparatory School.

However, the opinion stated that in individual cases it would be advisable to determine whether a student had made a commitment to active-duty service which would be binding upon disenrollment because such a student, even though not transferring directly from enlisted active-duty status, would be considered to be on active duty while attending a preparatory school. Paragraphs (b) and (c) of 38 CFR 3.6 are amended by this document to reflect the holdings in VAOPGCPREC 18–94 and VAOPGCPREC 6–95.

In the second sentence of § 3.6(a) the phrase ''*any* period of active duty for training'' is substituted for ''*and* period of active duty for training.'' This corrects a typographical error. No substantive rule change is involved.

Under 5 U.S.C. 553, there is a basis for dispensing with prior notice and comment and for dispensing with a 30-day delay of the effective date since the final rule constitutes an interpretive rule

regarding 38 U.S.C. 101, paragraphs 21 (definition of active duty) and 22 (definition of active duty for training).

The Secretary certifies that this 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. This amendment, which constitutes an interpretive rule, will affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 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: November 3, 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.

2. In § 3.6, paragraph (a) is amended by removing ''active duty, and'' and adding in its place ''active duty, any''; paragraphs (b)(5) and (b)(6) are redesignated as paragraphs (b)(6) and (b)(7), respectively; paragraph (c)(5) is redesignated as paragraph (c)(6); and new paragraphs (b)(5) and (c)(5) are added to read as follows:

§ 3.6 Duty periods.

* * * * *

(b) * * *

(5) Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy for enlisted active-duty members who are reassigned to a preparatory school without a release from active duty, and for other individuals who have a commitment to active duty in the Armed Forces that would be binding upon disenrollment from the preparatory school;

* * * * *

(c) * * *

(5) Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy by an individual who enters the preparatory school directly from the Reserves, National Guard or civilian life, unless the individual has a commitment to service on active duty which would be binding upon disenrollment from the preparatory school.

* * * * *

[FR Doc. 95–27995 Filed 11–13–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 93

[FRL–5329–9]

RIN 2060–AF95

Transportation Conformity Rule Amendments: Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action makes several changes to the current regulation requiring transportation plans, programs, and projects to conform to state air quality implementation plans.

This action allows any transportation control measure from an approved state implementation plan (SIP) to proceed during a conformity lapse; aligns the date of conformity lapses with the date of application of Clean Air Act highway sanctions for any failure to submit or submission of an incomplete control strategy SIP; extends the grace period before which areas must determine conformity to a submitted control strategy implementation plan; establishes a grace period before which transportation plan and program conformity must be determined in newly designated nonattainment areas; and corrects the nitrogen oxides provisions of the transportation conformity rule consistent with the Clean Air Act and previous commitments made by EPA.

A transportation conformity SIP revision consistent with these amendments must be submitted to EPA by 12 months from November 14, 1995.

EFFECTIVE DATE: This regulation is effective December 14, 1995, except for §§ 51.448(a)(1) and 93.128(a)(1) which will be effective November 14, 1995, and §§ 51.394(b)(3)(i), 93.102(b)(3)(i), 51.428(b)(1)(ii), and 93.118(b)(1)(ii) which will be effective February 12, 1996, for the reasons explained in **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Materials relevant to this rulemaking are contained in Public Docket A–95–05. The docket is located in room M–1500 Waterside Mall (ground floor) at the Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected from 8 a.m. to 4 p.m., Monday through Friday, including all non-government holidays.

FOR FURTHER INFORMATION CONTACT: Meg Patulski, Transportation and Market Incentives Group, Regional and State Programs Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 741–7842.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the transportation conformity rule, ''Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act'' (58 FR 62188, November 24, 1993). Required under section 176(c) of the Clean Air Act, as amended in 1990, the transportation conformity rule established the criteria and procedures by which the Federal Highway Administration, the Federal Transit Administration, and metropolitan planning organizations (MPOs) determine the conformity of federally funded or approved highway and transit plans, programs, and projects to state implementation plans (SIPs). Conformity ensures that transportation planning does not produce new air quality violations, worsen existing violations, or delay timely attainment of national ambient air quality standards. According to the Clean Air Act, federally supported activities must conform to the implementation plan's purpose of attaining and maintaining these standards.

This final rule is based on the August 29, 1995 proposed rule entitled, ''Transportation Conformity Rule Amendments: Miscellaneous Revisions'' (60 FR 44790) and comments received on that proposal. The public comment period for the proposed rule ended on September 28, 1995.

EPA also issued on August 29, 1995, an interim final rule entitled,