George J. Weise,

Commissioner of Customs.

Approved: February 11, 1996.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–5683 Filed 3–8–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of May 19, 1995 (60 FR 26825). This document amended the regulations for delegations of authority covering the certification of true documents and the use of the Department seal. In the final rule, ''The Director, Office of Food Labeling (CFSAN).'' was inadvertently omitted from the regulation. This document corrects that error.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

In FR Doc. 95–12398, appearing on page 26825, in the Federal Register of Friday, May 19, 1995, the following correction is made:

§ 5.22 [Corrected]

On page 26826, in the second column, § 5.22 is corrected by adding paragraph (a)(9)(xiii) to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(9) * * *

(xiii) The Director, Office of Food Labeling, CFSAN.

* * * * *

Dated: February 2, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5688 Filed 3–8–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 8634]

RIN 1545–AT11

Withholding on Distributions of Indian Gaming Profits to Tribal Members; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations [TD 8634] which were published in the Federal Register for Tuesday, December 19, 1995 (60 FR 65237). The final regulations relate to the income tax withholding requirement on distributions of profits from certain gaming activities made to members of Indian tribes.

EFFECTIVE DATE: December 19, 1995.

FOR FURTHER INFORMATION CONTACT: Rebecca Wilson (202) 622–6040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject to this correction are under section 3402 of the Internal Revenue Code.

Need for Correction

As published, TD 8634 contains an error that is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations which are the subject of FR Doc. 95–30683, is corrected as follows:

On page 65237, column one, in the heading, the ''RIN'' ''1545–AT12'' is corrected to read ''1545–AT11''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–5728 Filed 3–8–96; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI64–01–7148a; FRL–5416–8]

Approval and Promulgation of State Implementation Plan; Wisconsin; Clean-Fuel Fleet Program

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: In this action, U.S. Environmental Protection Agency (USEPA) is approving a revision to the Wisconsin State Implementation Plan (SIP) for the purpose of establishing a Clean-Fuel Fleet Program. Wisconsin submitted the SIP revision request to satisfy a federal mandate, found in the Clean Air Act, requiring certain states to establish Clean-Fuel Fleet Programs. This revision establishes and requires the implementation of a Clean-Fuel Fleet Program in the Milwaukee ozone nonattainment area.

DATES: This ''direct final'' rule is effective May 10, 1996, unless USEPA receives adverse or critical comments by April 10, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to: Carlton T. Nash, United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch (AP–18J), 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the documents relevant to this action are available at the above address for public inspection during normal business hours.

FOR FURTHER INFORMATION CONTACT: Brad J. Beeson at (312) 353–4779.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act (CAA), codified at 42 U.S.C. 7401–7671q. The Clean-Fuel Fleet Program (CFFP) is contained under Part C, entitled ''Clean Fuel Vehicles,'' of Title II of the Clean Air Act. Part C was added to the CAA to establish two programs, a clean-fuel vehicle pilot program in the state of California (the California Pilot Test Program) and a federal CFFP in certain ozone and carbon monoxide (CO) nonattainment areas.

The CFFP will introduce lower pollution emitting vehicles, ''clean-fuel vehicles'' (CFVs), into centrally-fueled fleets by requiring covered fleet operators to include a percentage of CFVs in their new fleet purchases. The goal of the CFFP is to reduce emissions of non-methane organic gasses (NMOG), oxides of nitrogen (NOx), and CO through the introduction of CFVs into the covered areas. Both NMOG and NOx are precursors of ozone and, in most areas, their reduction will reduce the concentration of ozone in covered ozone nonattainment areas. Reductions of vehicular CO emissions will reduce the

concentration of CO in covered CO nonattainment areas.

Congress chose centrally-fueled fleets because operators of these fleets have more control over obtaining fuel than the general public. Additionally, the control that operators maintain over their fleets simplifies maintenance and refueling of these vehicles. Finally, because fleet vehicles typically travel more miles on an annual basis than do non-fleet vehicles, they provide greater opportunity to improve air quality on a per vehicle basis.

Section 182(c)(4) of the CAA allows states to opt-out of the CFFP by submitting, for EPA approval, a SIP revision consisting of a substitute program resulting in as much or greater long term emission reductions in ozone producing and toxic air emissions as the CFFP. The EPA may approve such a revision ''only if it consists exclusively of provisions other than those required under the [CAA] for the area.''

II. Program Requirements

Unless a state chooses to opt-out of the CFFP under section 182(c)(4) of the CAA, section 246 of the CAA directs a state containing covered areas to revise its SIP, within 42 months after enactment of the CAA, to establish a CFFP. The CFFP shall require a specified percentage of all newly acquired vehicles of covered fleets, beginning with model year (MY) 1998 and thereafter, to be CFVs and such vehicles shall use the fuel on which the vehicle was certified to be a CFV (or to use a fuel that will result in even fewer emissions than the fuel that was used for certification), when operating in the covered area.

III. State Submittal

The state of Wisconsin did not choose to opt-out of the CFFP pursuant to section 182(c)(4) of the CAA and, therefore, submitted a SIP revision on May 12, 1994, to implement a CFFP. However, because this submittal did not include a fully adopted rule establishing a CFFP, EPA deemed the submittal incomplete. On June 7, 1995, the state made a supplemental submittal that included a fully adopted CFFP rule. On July 20, EPA determined that the state's SIP submittal for a CFFP was complete.

IV. EPA's Analysis of the State's Clean Fuel Fleet Program

EPA has reviewed the state's submittal for consistency with the requirements of EPA regulations. A summary of EPA's analysis is provided below. More detailed support for approval of the state's submittal is contained in a Technical Support Document (TSD), dated September 6, 1995, which is available from the Region 5 Office, listed above.

A. Covered Areas

The SIP revision needs to list those areas where the CFFP will be implemented, as required by section 246(a)(2) of the CAA. In Wisconsin, the applicable areas defined by section 246(a)(2) include Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties.

Section NR 487.01(1) of the Wisconsin Administrative Code defines the covered area to include Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties. These are the same counties as required by the CAA.

B. Definitions

Sections 241(1) to (7) of the CAA, and 40 CFR 88.302–94, define specific terms that are to be used in the state regulations.

NR 487.02 contains definitions of the terms used by Wisconsin in the CFFP rule. The revision's definitions are consistent with section 241(1) to (7) of the CAA as well as 40 CFR 88.302–94.

C. Covered Fleets

Section 241(5) of the CAA defines a ''covered fleet'' as 10 or more motor vehicles that are owned or operated by a single person.

NR 487.01(1) and 487.02, taken together, identify the vehicles/fleets that are included in Wisconsin's CFFP, and are consistent with section 241(5) of the CAA.

D. Vehicles Classes Covered

Sections 242 and 243 of the CAA and 40 CFR part 88, subpart C, define the vehicle classes covered by the CFFP. Additionally, section 245(a) of the CAA exempts from the CFV standards vehicles having a Gross Vehicle Weight Rating (GVWR) of more than 26,000 pounds.

NR 487.02(6) and (7) define the vehicle classes covered by the Wisconsin CFFP. The classes of vehicles included in the Revision are identical to those set forth in sections 242 and 243 of the CAA and 40 CFR part 88, subpart C, including the 26,000 pound GVWR exemption.

E. Clean-Fuel Vehicles (CFVs)

Section 241(7) of the CAA defines a CFV to mean a vehicle in a class or category of vehicles that has been certified to meet for any model year the applicable CFV standards. 40 CFR 88.104–94 and 40 CFR 88.306–94 establish three categories of increasingly stringent CFV standards, which are referred to as low-emission vehicle (LEV) standards, ultra low-emission vehicle (ULEV) standards, and zero-emission vehicle (ZEV) standards. In addition, a vehicle certified by the EPA to meet the inherently low-emission vehicle (ILEV) standard, found in 40 CFR 88.311–93, is also considered a CFV.

NR 487.02(6) defines a CFV as a vehicle which has been certified to meet, for any model year, a set of emission standards, contained in Table I of the CFFP rule. The standards specified in the rule are the same as those established in 40 CFR 88.104–94, 40 CFR 88.311–93, and 40 CFR 88.306–944.

F. Percentage Requirements

Section 246(b) of the CAA establishes phase-in requirements for covered fleets applicable to new vehicle acquisitions.

NR 487.03 contains the CFV purchase requirements for the Wisconsin's CFFP. The phase-in schedule in Wisconsin's rule is identical to the schedule in the CAA.

G. Credit Program

Section 246(f) of the CAA and 40 CFR 88.304–94 require the state to implement a credit program as part of the CFFP. Briefly, the Clean-Fuel Fleet (CFF) credit program establishes a market-based mechanism that allows fleet owners some flexibility in complying with the CFF purchase requirement. Fleet owners may meet the purchase requirements in any of several ways: (1) By the purchase of more CFVs than the minimum required by a CFFP; (2) by the purchase of CFVs which meet more stringent emission standards than the minimum required by the CFFP; (3) by the purchase of CFVs otherwise exempt from the CFFP; and (4) by the purchase of CFVs before MY 1998.

The credits generated may be used by a covered fleet operator to satisfy the purchase requirements of a CFFP or may be traded by one covered fleet operator to another, provided the credits were generated and used in, and both operators are located in, the same nonattainment area. Certain restrictions on the trading of the credits between classes must be observed. The credits do not depreciate with time and are to be freely traded without interference by the state.

NR 487.09 establishes a credit program that provides credits for operators who: (1) acquire more CFVs than the Wisconsin CFFP requires in any year; (2) acquire CFVs which meet more stringent emission standards than the minimum requirements; (3) acquire

CFVs in exempted vehicle categories; or (4) acquire CFVs after November 15, 1990, but prior to MY 1998. These eligibility requirements are consistent with section 246(f) of the CAA.

NR 487 includes Tables 3, 4, 6, and 7, which set forth the amount of credit granted for the various ways of meeting the purchasing requirements explained above. These tables are identical to Tables C94–2, C94–2.2, C94–4, and C94–4.2 of 40 CFR part 88, subpart C.

The revision requires credits for LDV and HDV to be kept separate. Trading of credits between LDV and LDT is permitted. However, trading is not allowed between HDV and LDV or LDT or in an upward direction. These limitations and restrictions are consistent with those specified in section 246(f)(2) of the CAA.

H. Fuel Use

40 CFR 88.304–94(b)(3) requires that the fuel on which a dual fuel/flexible fuel CFV was certified to be used at all times when the vehicle is in the covered area.

NR 487.03(3) requires that for any dual-fuel/hybrid electric vehicle to be considered a CFV (and therefore capable of generating credit), the vehicle must be operated, while in the covered area, on the fuel or power source, for which it was certified to meet applicable emission standards.

I. Fuel Availability

Section 246(e) of the CAA requires the SIP revision to require fuel providers to make clean alternative fuel available to the covered fleets at central locations.

NR 487.12 requires fuel providers to make clean alternative fuels available to covered fleet operators at central locations where technically and economically feasible.

J. Consultation

Section 246(a)(4) of the CAA requires that the SIP revision must be developed in consultation with fleet operators, vehicle manufacturers, fuel producers, distributors of motor vehicle fuel, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, costs, safety, resale values, and other relevant factors.

The Wisconsin Department of Natural Resources (WDNR) organized a consultation committee, called the Clean-Fuel Fleet Committee. The Committee met several times and included representatives from fleet owners, fleet operators, fuel providers, and environmentalists. The Committee took into consideration the factors specified in section 246(a)(4) of the CAA.

K. Recordkeeping and Monitoring

No specific recordkeeping and monitoring requirements are found in section 246 of the CAA or 40 CFR 88.304–94. However, EPA ensures that a number of questions are answered in order to determine the adequacy of a CFFP. 60 FR 54305 (Oct. 23, 1995).

(1) Does the SIP revision provide a reasonable process for the state to determine which fleets should report data to the state, consistent with the state's approach to ''operated in the covered area''?

(2) Is there a process for updating this list of potentially covered fleet operators?

(3) Does the SIP revision include a process for the state agency to receive at least the following data from fleet operators:

(a) Numbers, categories, and fueling patterns of vehicles in the fleet?

(b) Numbers, engine family names, categories, and fueling patterns of new acquisitions?

(c) Numbers, engine family names, categories, and fueling patterns of CFV acquisitions?

(d) For dual-fuel/flexible-fuel vehicles, data on fuel usage sufficient to demonstrate that the proper fuel was used when the vehicle was operated in the covered area?

(4) Does the SIP revision describe how the data will be processed, maintained, updated, and used to confirm compliance by fleets?

(5) Does the SIP revision provide for oversight of the data acquisition process?

Information and actions responsive to these questions are provided as follows:

NR 487.05 requires any person who operates a fleet of 10 or more CFVs to register with the WDNR.

NR 487.05 also requires the registration to include some information responsive to the questions above. In addition, NR 487.06 requires covered fleet operators to submit annual compliance plans to WDNR. All information required in 3(a) to 3(d) above, as well as other information, is included in these requirements. The information is reported on balance sheets and item sheets which allows the WDNR to monitor the performance of the operators. WDNR will review the annual compliance plans for approval or disapproval in keeping with NR 487.08.

L. Enforcement

The state must be able to adequately enforce the requirements of the regulations adopted for implementation of the CFFP. 60 FR 54305 (Oct. 23, 1995).

NR 487.14 is the enforcement section of the Wisconsin CFFP. This section states that fleet operators are subject to WDNR enforcement procedures and penalties if they fail to comply with any requirement of NR 487.

M. Transportation Control Measure Exemptions

40 CFR 88.307–94(a) requires states to exempt any CFV, required by law to participate in a CFFP, from temporal-based (e.g., time-of-day or day-of-week) transportation control measures (TCM) existing for air quality reasons as long as the exemption does not create a clear and direct safety hazard. In the case of high occupancy vehicle (HOV) lanes, this exemption only applies to CFVs that are certified to be ILEVs pursuant to 40 CFR 88.313–93.

NR 487.10 exempts CFVs from temporal based TCMs as long as the CFV is in compliance with applicable emission standards. In addition, NR 487.10(3) specifically exempts ILEVs from HOV restrictions. These TCM restrictions are consistent with those provided for in 40 CFR 88.307–94 and 40 CFR 88.313–93.

N. Concluding Statement

The EPA has reviewed the Wisconsin CFFP SIP revision submitted to the EPA as described above. The materials contained in the SIP revision represent an acceptable approach to the CFFP requirements and meet all the criteria required for approvability.

V. Action

The EPA approves Wisconsin's CFFP SIP submittal. With this action, EPA incorporates Wisconsin's CFFP SIP revision into the SIP, making it federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on May 10, 1996. However, if we receive significant adverse comments by April 10, 1996, EPA will publish a document that modifies or withdraws this action.

VI. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The 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.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

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.

This approval does not create any new requirements. Therefore, I certify that this action 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 the regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of the state action. The Act 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 (1976).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector.

This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 1996. 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: January 17, 1996.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the 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 YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(87) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(87) The state of Wisconsin requested a revision to the Wisconsin State Implementation Plan (SIP). This revision is for the purpose of establishing and implementing a Clean-Fuel Fleet Program to satisfy the federal requirements for a Clean Fuel Fleet Program to be part of the SIP for Wisconsin.

(i) Incorporation by reference.

(A) Chapter 487 of the Wisconsin Administrative Code, effective June 1, 1995.

(B) Wisconsin Statutes, section 144.3714, enacted on April 30, 1992, by Wisconsin Act 302.

* * * * *

[FR Doc. 96–5735 Filed 3–8–96; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 52

[MO–30–1–7152a; FRL–5424–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: By this action the EPA gives conditional approval to the State Implementation Plan (SIP) submitted by the state of Missouri for the purpose of fulfilling the requirements set forth in the EPA's General Conformity rule. The SIP was submitted by the state to satisfy the Federal requirements in 40 CFR 51.852 and 93.151.

DATES: This action will be effective May 10, 1996, unless by April 10, 1996, adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION:

I. Background

Section 176(c) of the Clean Air Act (CAA), as amended (the Act), requires the EPA to promulgate criteria and procedures for demonstrating and ensuring conformity of Federal actions to an applicable implementation plan developed pursuant to section 110 and Part D of the Act. Conformity to an SIP is defined in the Act as meaning conformity to an SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards. The Federal agency responsible for the action is required to determine if its actions conform to the applicable SIP. On November 30, 1993, EPA promulgated the final rule (hereafter referred to as the General Conformity rule), which establishes the criteria and