

failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2002. 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, Carbon monoxide,

Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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 *et seq.*

**Subpart R—Kansas**

2. In § 52.870 the table in paragraph (e) is amended by adding an entry at the end of the table.

The addition reads as follows:

**§ 52.870 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA APPROVED KANSAS NONREGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Air monitoring plan .....	Statewide .....	1/16/02	August 30, 2002 [FR cite].	

Dated: August 12, 2002.  
**William A. Spratlin,**  
*Acting Regional Administrator, Region 7.*  
[FR Doc. 02-22087 Filed 8-29-02; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**  
[FRL-7207-7]

**National Priorities List for Uncontrolled Hazardous Waste Sites**

**AGENCY:** Environmental Protection Agency.  
**ACTION:** Notice of Clarification of United States Avenue Burn site.

On July 22, 1999, the Environmental Protection Agency ("EPA") promulgated a final rule adding the United States Avenue Burn site, located in Gibbsboro, NJ, on the National Priorities List ("NPL") (64 FR 39878). On September 21, 1999, the Sherwin-Williams Company filed a petition for review of that rule in the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit"). *Sherwin-*

*Williams Company v. United States Environmental Protection Agency*, Case No. 99-1388 (D.C. Cir. 1999). EPA and Sherwin-Williams thereafter entered into negotiations to settle this litigation, and on July 10, 2002 the parties entered into a formal settlement agreement.

In response to this settlement agreement, the DC Circuit Court issued an order remanding the United States Avenue Burn listing decision to EPA on August 2, 2002. In accordance with the Court's remand order and the settlement agreement, EPA is providing notice clarifying that the United States Avenue Burn site, as listed on the NPL (40 CFR part 300, Appendix B), does not include the Railroad Track Area. However, the United States Avenue Burn site remains on the NPL.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Griesert, phone (703) 603-8888, State, Tribal and Site Identification Center; Office of Emergency and Remedial Response (mail code 5204G); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Dated: August 23, 2002.  
**Marianne Lamont Horinko,**  
*Assistant Administrator, Office of Solid Waste and Emergency Response.*  
[FR Doc. 02-22229 Filed 8-29-02; 8:45 am]  
**BILLING CODE 6560-50-P**

**NATIONAL SCIENCE FOUNDATION**

**45 CFR Part 672**

**Antarctic Conservation Act of 1978, Civil Monetary Penalties**

**AGENCY:** National Science Foundation.  
**ACTION:** Final rule with a request for comments.

**SUMMARY:** The National Science Foundation (NSF) is adjusting civil monetary penalties that may be imposed for violations of the Antarctic Conservation Act of 1978 to reflect inflation since the last effective adjustment.

**DATES:** This rule is effective September 30, 2002.

Comments, however, are welcome at any time and will be considered in making future revisions.

**ADDRESSES:** All comments should be addressed to: John Chester, Assistant General Counsel, Office of the General Counsel, Room 1265, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

**FOR FURTHER INFORMATION CONTACT:** John Chester on (703) 292-8060 (voice) and (703) 2926-9041 (facsimile)—those are not toll-free numbers—or by electronic mail as *jchester@nsf.gov* through INTERNET.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890; 28 U.S.C. 2461 note) as amended by the Debt Collection Improvement Act of 1996 [section 31001(s)(1) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134, approved 4/26/96] directs each Federal agency to adjust, by regulation, each civil monetary penalty provided by law within the jurisdiction of that agency to compensate for the effects of inflation. The only civil monetary penalties within the jurisdiction of the National Science Foundation are those imposed for violations of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 *et seq.*). On June 16, 1998 NSF published an amendment to its rules governing enforcement of that law adding a new section setting out the penalties for inadvertent and deliberate violations and adjusting those penalties for inflation as provided in the Debt Collection Improvement Act. The General Accounting Office recently informed the Foundation that the second adjustment made at that time exceeded the amount allowable under the cited statute. This amendment corrects that error by recognizing that the second adjustment was ineffective and therefore the initial adjustment remained in effect. It also adjusts the penalty amounts for violations occurring after August 31, 2002 to reflect the approximately nine percent inflation from June 1998, the year when the penalty was adjusted, through June 2001. Because of the rounding rules applicable to these adjustments, no change will be made to the penalty for knowing violations. This amendment also changes the language used to describe the two levels of violations to incorporate that used in the relevant section of the Antarctic Conservation Act [16 U.S.C. 2407(a)].

Future adjustments will be made at least once every four years as called for in the amended Debt Collection Improvement Act.

Because this action merely makes adjustments required by statute, public

comments were not solicited prior to its issuance.

#### Determinations

Under the criteria set forth in Executive Order 12866 as amended by Executive Order 13258, that this rule is not a significant regulatory action requiring review by the Office of Information and Regulatory Affairs. Consequently, this rule is also not subject to Executive Orders 13045 and 13211.

The rule is not an economically significant rule or a major rule under the Congressional Review Act. The Congressional Review Act provides that agencies shall submit a report, including a copy of all final rules, to each House of Congress and the Comptroller General of the United States. The Foundation will submit this report, identifying this rule as non-major, upon the publication of this rule in the **Federal Register**.

The Unfunded Mandate Reform Act of 1995, in sections 202 and 205, requires that agencies prepare several analytic statements before proposing a rule that may result in annual expenditures of \$100 million by State, local and Indian tribal governments, or by the private sector. As this rule will not result in expenditures of that magnitude, such statements are not necessary. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small businesses.

The provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. 3501 *et seq.*, and its implementing regulations, 5 CFR Part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements. This action does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes as specified by Executive Order 13175 and accordingly is not subject to that Order. Finally, NSF has reviewed this rule in light of Section 2 of Executive Order 12778 and certifies that this rule meets the applicable standards provided in sections 2(a) and 2(b) of that order.

#### List of Subjects in 45 CFR Part 672

Administrative practice and procedure, Antarctica.

For the reasons set out in the preamble, 45 CFR Part 672 is amended as follows:

#### PART 672—ENFORCEMENT AND HEARING PROCEDURES; TOURISM GUIDELINES

1. The authority citation for Part 672 continues to read as follows:

**Authority:** 16 U.S.C. 2401 *et seq.*, 28 U.S.C. 2461 note

2. Revise § 672.24 to read as follows:

#### § 672.24 Maximum civil monetary penalties for violations.

(a) For violations occurring before August 1, 1998, the maximum civil penalty that may be assessed under §§ 672.20(b) and 672.23(a) is set by the statute at \$5,000 for any violation and \$10,000 for knowing violations.

(b) For violations occurring between August 1, 1998 and August 31, 2002, the maximum civil penalty was adjusted under authority of the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) to \$5,500 for any violation and \$11,000 for knowing violations.

(c) For violations occurring after August 31, 2002, the maximum civil penalty is adjusted under authority of the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) to \$6,500 for any violation and \$11,000 for knowing violations.

National Science Foundation.

Dated: July 18, 2002.

**Lawrence Rudolph,**

*General Counsel.*

[FR Doc. 02-22152 Filed 8-29-02; 8:45 am]

BILLING CODE 7555-01-P

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[FCC 02-201; MM Docket No. 98-112, RM-9027, RM-9268, RM-9384]

**Radio Broadcasting Services; Anniston and Asland, AL, and College Park, Covington, Milledgeville, and Social Circle, GA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; denial of petition for reconsideration.

**SUMMARY:** This document denies a Petition for Reconsideration and Motion to Reopen the Record filed by Preston Small directed to the *Memorandum Opinion and Order* in this proceeding which denied an earlier Petition for