DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AB59

Land Uses; Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands; Mediation of Grazing Disputes

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations governing Forest Service administrative appeal regulations pertaining to occupancy and use of National Forest System lands to offer mediation of certain grazing permit disputes in those States that have USDA certified mediation programs. This action is authorized by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994. The intended effect is to incorporate mediation for certain grazing disputes into established agency dispute resolution procedures.

EFFECTIVE DATE: This rule is effective August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Berwyn L. Brown, Range Management Staff, Forest Service, (202) 205–1457.

SUPPLEMENTARY INFORMATION: Pursuant to section 502 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101, *et seq.*) (hereafter, the 1987 Act), the Department of Agriculture offers a mediation program that provides borrowers and creditors an opportunity to resolve disputes prior to bankruptcy or litigation. The 1987 Act authorizes the Department of Agriculture to help States develop and participate in certified mediation programs.

Section 282 of Title II of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (hereafter, the 1994 amendments) amended the 1987 Act to expand the number and type of issues available for mediation under a State's mediation program. One of the issues subject to mediation in the 1994 amendments concerned grazing on National Forest System lands.

Under the Secretary's rangeland regulations at 36 CFR 222.4, the Chief of the Forest Service may cancel a permit when one or more of the following conditions exist:

When a permittee refuses to accept modification of the terms and conditions of an existing permit (§ 222.4(a)(2)(i));

When a permittee refuses or fails to comply with eligibility or qualification requirements (§ 222.4(a)(2)(ii));

When a permittee fails to restock the allotted range after the full extent of approved personal convenience non-use has been exhausted (§ 222.4(a)(2)(iv)); and

When a permittee fails to pay grazing fees within established time limits (§ 222.4(a)(2)(v)).

The provisions of this section also authorize the Chief to cancel or suspend a permit when one or more of the following conditions exist:

When a permittee fails to pay grazing fees within established time limits (§ 222.4(a)(3));

When a permittee does not comply with provisions and requirements in the grazing permit or the regulations of the Secretary of Agriculture on which the permit is based (§ 222.4(a)(4));

When a permittee knowingly and willfully makes a false statement or representation in the grazing application or amendments thereto (§ 222.4(a)(5)); and

When a permittee is convicted for failing to comply with Federal laws or regulations or State laws relating to protection if air, water, soil and vegetation, fish and wildlife, and other environmental values when exercising the grazing use authorized by the permit (§ 222.4(a)(6)).

These cancellation of suspension actions are generally referred to as ''permit enforcement actions'' and may be appealed under part 251, subpart C, of Title 36 of the Code of Federal Regulations, which pertain generally to enforcement actions by an authorized officer regarding written instruments authorizing occupancy and use of National Forest System lands. Since only holders of such authorization may appeal under 36 CFR part 251, subpart C, it is this rule that the Forest Service has amended to incorporate a mechanism for the mediation of certain grazing disputes, as required by the 1994 amendments.

Section 501 of the 1987 Act, as amended, specifies that, in order to be certified, States shall provide for confidential mediation sessions. This statutory requirement necessitates a rule of rather narrow parameters. The types of decisions subject to mediation under this final rule are not subject to public disclosure and, therefore, can be mediated in confidence, since they relate to grazing permits and involve only the Deciding Officer or designee, the holder of a term grazing permit who seeks relief from a written decision to cancel or suspend a permit, and, in some circumstances, the holder's creditors.

Holders of other written authorizations to occupy and use National Forest System lands who may appeal written decisions of Forest Service line officers (§ 251.86) will not be affected by this final rule.

Response to Comments

A proposed rule was published for public review and comment in the **Federal Register** on February 27, 1998 (63 FR 9987). Thirteen comments were received from six groups and individuals representing private organizations, agricultural mediation programs, State agencies, and private citizens.

No comments were received on § 251.84, Obtaining notice; § 251.90, Content of notice of appeal; § 251.91, Stays; § 251.92, Dismissal; § 251.93, Resolution of issues; § 251.94, Responsive statement; § 251.103(e), Records; or § 251.103(g) Exparte communication. Therefore, these sections are not discussed further and are adopted as proposed.

A summary of major comments received on § 251.103 and the agency response follows:

Section 251.103 Mediation of Term Grazing Permit Disputes

Decisions subject to mediation. Proposed paragraph (a) of § 251.103 stated that in those States with Department of Agriculture certified mediation programs, any holder of a term grazing permit may request mediation as part of an administrative appeal when a Deciding Officer issues a decision to suspend or cancel a term grazing permit, in whole or in part, in accordance with 36 CFR 222.4(a)(2)(i),(ii)(iv),(v) and (a)(3)–(a)(6).

Comment. Several reviewers said that mediation should be available for any appealable decision including allotment management plans and annual operating plans. One reviewer suggested the regulation be left as broad as possible to allow for medication of any issues that may arise that could best be resolved through mediation.

Response. The opportunity for medication is already available, but not mandated, under Forest Service administrative appeal regulation § 215.16(a) for resolution of NEPA-based decisions such as those leading to the preparation of allotment management plans. Also Forest Service administrative appeal regulations at § 251.93 provide for mediation of disputes which may arise from Forest Service decisions about authorized use. While it is true that section 282(a) of the

1994 amendments expanded the issues covered under State mediation programs to include ''Grazing on National Forest System lands,'' these mediation sessions must be confidential. The reviewers of the proposed rule for mediation of grazing disputes did not provide any compelling arguments to support the notion that the statute requires a rule which encompasses all grazing decisions on National Forest System lands. The Department has determined that the confidentiality requirement necessitates a rule that limits mediation to permit enforcement actions involving the Forest Service and the holder of a term grazing permit. In these cases, the subject of the mediation is the decision by the authorized officer to impose a sanction upon the permittee resulting from a violation of the permit terms and conditions.

Parties. Proposed paragraph (b) of § 251.103 stated that the parties who may participate in mediation of term grazing permit disputes would be limited to the State certified mediator, the Deciding Officer or designee, the permittee who has requested mediation, creditors of the permittee, and, potentially, legal counsel representing the permittee and the Deciding Officer.

Comment. Several respondents urged the Forest Service to expand the category of parties eligible to participate in mediation to include technical experts, State agency personnel, and other Forest Service personnel. One respondent recommended that the permit holder and Deciding Officer have the authority to expand or limit participants. Another respondent stated the holder should be able to invite any party to support them. One respondent stated mediation should include representatives from the affected State fish and wildlife agency and local non-governmental conservation groups. Two respondents wanted the Deciding Officer, and not a designee, to participate in mediation to ensure consistency.

Response. The input of third parties would have no bearing on the outcome of mediation since the scope of the mediation is narrowly focused on a permittee's violation of permit conditions, which led to suspension or cancellation of their permit. Third parties have no cause or reason to participate in a mediation of a term permit dispute between a permittee and the Government. Also as stated in the preamble of the proposed rule, broader participation in mediation would pose a risk to maintaining the required confidentiality.

Given the nature of Forest Service business and scheduling difficulties due to a reduce workforce, the Department has determined that a designee of the Deciding Officer who made the decision could represent the Forest Service in mediation of term grazing permit disputes. Although, the Department agrees that it is desirable to have the Deciding Officer participate in mediation, there likely will be times when Deciding Officer participation will not be possible. Furthermore, the decision that is the subject of the mediation, although made by the Deciding Officer, is still a Forest Service action and a designee should be able to adequately represent the agency in the mediation of the dispute. Therefore, the provision in the proposed rule at § 251.103(b)(2) is retained without revision in the final rule. The Forest Service plans to issue Service-wide direction to require the Deciding Officer to participate in mediation when available.

Timeframe. Proposed paragraph (c) of § 251.103 stated that when an appellant simultaneously requested mediation at the time an appeal is filed, the Reviewing Officer shall immediately notify, by certified mail, all parties to the appeal that, in order to allow for mediation, the appeal is suspended for 30 calendar days. Proposed paragraph (c) also proposed that if an agreement has not been reached at the end of 30 calendar days but it appears to the Deciding Officer that a mediated agreement may soon be reached, the Reviewing Officer may extend the period for mediation an additional 15 calendar days.

Comment. Several respondents encouraged the Forest Service to increase the timeframe for mediation to 60 to 90 days instead of the 30 to 45 day timeframe set forth in the proposed rule. One respondent requested the addition of a provision to extend the timeframe for mediation beyond 90 days to gather new information.

Response. The decision to limit mediation to 45 days was intended to provide the opportunity for meaningful mediation, while, at the same time, ensure that the Agency's administrative review process would be completed in a timely manner. In the event that mediation was unsuccessful, the 45-day timeframe would minimize the potential for delays and damage to National Forest System lands and resources. However, based on the comments received and experience gathered by the agency through experimenting with mediation of cancellation and suspension actions during the preparation of the proposed rule, the request to provide additional time for the mediation process seems reasonable and offers increased scheduling flexibility and more time for pre-mediation preparation and the actual mediation. Since the issues associated with suspension and cancellation actions are limited and narrowly focused, the agency does not agree that a provision to extend beyond 60 calendar days is warranted. Therefore, the Department has revised the provision in the proposed rule at § 251.103(c) to suspend the appeal for 45 calendar days with an option to extend the period an additional 15 calendar days, if the Deciding Officer believes a mediated resolution to the dispute is imminent. Even after the termination of this time period, discussions intended to resolve the dispute without proceeding with an administrative appeal may continue under 36 CFR 251.93.

Confidentiality. Proposed paragraph (d) specifies that mediation sessions must be confidential and that the terms of a final mediated agreement are subject to public disclosure.

Comment. Reviewers supported confidential mediation sessions between the Forest Service and individual term grazing permit holders; however, several reviewers expressed concern over what information would be included in a ''public disclosure of the terms'' of a mediated agreement.

Response. The Department agrees that clarification of the information being disclosed is needed. Background material used in mediation would not be included in a mediated agreement. Therefore, the proposed rule at § 251.103(d) has been revised to clarify that only the final agreement signed by both the Forest Service official and the permit holder is subject to public disclosure.

Cost. Paragraph (f) of § 251.103 proposed that the United States Government shall cover only the incurred expenses of its own employees in mediation sessions.

Comment. Reviewers requested changing the proposed cost provision to include dividing the cost for services provided under State certified programs equally between the State, permittee, and the Forest Service or dividing the cost evenly between the Forest Service and the permittee. Primary reasons given by reviewers for the Government to pay additional costs include: (1) While the Department of Agriculture does administer and distribute the mediation grant funds, the funds themselves are provided by Congress through a separate line item appropriation. Thus, the certified mediation programs are not being funded by ''agency'' funds; (2) Each

party to the mediation must be treated equally, including sharing the cost of mediation; otherwise, there is a perception it is part of the Forest Service system and, as such, the outcome will have a bias toward the Service; (3) All other Department of Agriculture agencies participating in the program are paying fees in those States that charge them; (4) Without the Forest Service paying a share of the costs States will be forced to request augmented Department of Agriculture mediation grants to maintain the effectiveness of the program currently established; and (5) Wyoming statutes specifically provide that parties in the mediation process shall share the costs of mediation equally.

Response. After fully considering these comments the Department does not agree that there are compelling arguments to warrant the Government incurring additional responsibility for the cost of mediation because:

(1) The issue of the cost of mediation is not that funds are provided through a line item appropriation but rather that the Department already provides a large share of the funding for State mediation program operating expenses.

(2) The system for allocating the costs of the mediation among the parties should have no bearing on whether the parties will be treated equally. Mediators are specifically trained to serve as a neutral third party with no bias toward either side of the dispute. Although State mediation programs are certified by the Secretary of Agriculture, the mediators are State, not Federal, officials. Furthermore, in light of the fact that the Department of Agriculture already finances a substantial percentage of state mediation programs, additional payments by the Forest Service to cover a portion of the cost of the mediation may create a perception that the system is biased towards the agency.

(3) Regardless of how other agencies of the Department of Agriculture address this issue, it is the Forest Service position that it does not currently have sufficient funds in its rangeland management budget to comply with its basic land management planning and permit responsibilities and also cover state mediation expenses.

(4) The Department would not object to the States seeking additional funding to cover the cost of grazing permit dispute mediation expenses through an increased grant from the Department.

(5) States vary widely in their policies for funding of State certified mediation programs. To the extent that State laws conflict with these regulations, these regulations would prevail.

Other Comments

Comment. Some reviewers indicated that mediation is relatively unknown to most people and that a definition of mediation in the regulation would be helpful to explain what it is and how it works.

Response. Mediation is not a term of art, but a common term with a common meaning; therefore, the term ''mediation'' does not need to be defined in the Code of Federal Regulations. However, since § 251.84 requires the Deciding Officer to give written notice of the opportunity for mediation in the notice of appeal when the action suspends or cancels a term grazing permit pursuant to 36 CFR 222.4(a)(2)(ii), (iv) and (a)(3) through (a)(6), the Department agrees that describing the mediation process is a good idea. The Forest Service plans to issue national direction instructing the Deciding Officer to include a description of the mediation process in the written notice of adverse action per § 251.84.

Comment. Several respondents requested that mediation be made available to all permit uses on Forest Service lands, instead of limited to only term grazing permit disputes, according to proposed § 251.103.

Response. The opportunities for informal resolution of disputes, including use of mediation, involving other permitted uses of National Forest System lands, is already available under Forest Service administrative appeal regulations. This final rule is limited to implementing the Agricultural Credit Act of 1987, as amended, and, therefore, requires a rule of narrow parameters. Thus, the expansion of mediation to permit disputes, other than grazing permit suspension or cancellation, is not appropriate under this rulemaking.

Comment. Two respondents requested that the regulation allow the permittee and the Deciding Officer to form technical review teams to gather resource information and to provide technical expertise for making sound management decisions.

Response. Because the scope of the mediation is limited to certain types of permit enforcement actions, it is unclear what benefit, if any, would result from authorizing the formation of technical review teams to advise the permittee and the Deciding Officer. In addition, staffing these teams could be costly and time consuming for the parties. Therefore, since the benefits of a technical review team would be minimal, at best, while the costs are substantial, the final rule does not provide for such teams to be involved in the mediation process, either directly or indirectly.

The full text of revisions to 36 CFR part 251, subpart C, is set out at the end of this notice.

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This rule will not have an annual effect of $100 million or more on the economy nor will it adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this final rule is not subject to Office of Management and Budget review under Executive Order 12866.

Moreover, this final rule has been considered under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act. The final rule does not compel small entities to do anything. Election of mediation of grazing disputes is strictly voluntary at the option of an individual permittee. The requirements of the final rule are the minimum necessary to protect the public interest, are not administratively burdensome or costly to meet, and are well within the capability of individuals and small entities to perform.

Controlling Paperwork Burdens on the Public

This final rule does not contain any new recordkeeping or reporting requirements or other new information collection requirements as defined in 5 CFR part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Environmental Impact

This final rule would establish uniform direction to allow for mediation of certain types of grazing disputes. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental

assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's assessment is that this final rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Civil Justice Reform Act

This final rule has been reviewed under Executive Order 12988, Civil Justice reform. By adopting this final rule (1) all State and local laws and regulations that are in conflict with this final rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this final rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

No Taking Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule does not pose the risk of a taking of Constitutionally protected private property.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This final rule does not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Therefore, after notice and consideration of comments received and for the reasons noted in the preamble, the Secretary of Agriculture is adopting the final rule for implementing section 282 of Title II of the Federal Crop and Insurance Reform and Department of Agriculture Reorganization Act of 1994.

List of Subjects in 36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, and Water resources.

Therefore, for the reasons set forth in the preamble, subpart C of part 251 of title 36 of the Code of Federal Regulations is amended as follows:

PART 251—LAND USES

Subpart C—Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands

1. Revise the authority citation for subpart C to read as follows:

Authority: 7 U.S.C. 5101–5106; 16 U.S.C. 472, 551.

2. Amend § 251.84 by designating the existing text as paragraph (a) and by adding a paragraph (b) to read as follows:

§ 251.84 Obtaining notice.

* * * * *

(b) In States with Department of Agriculture certified mediation programs, a Deciding Officer shall also give written notice of the opportunity for the affected term grazing permit holder to request mediation of decisions to suspend or cancel term grazing permits, in whole or in part, pursuant to 36 CFR 222.4(a)(2)(i), (ii), (iv), (v) and (a)(3) through (a)(6). Such notice must inform the permit holder that, if mediation is desired, the permit holder must request mediation as part of the filing of an appeal.

3. Amend § 251.90 by revising paragraph (c) to read as follows:

§ 251.90 Content of notice of appeal.

* * * * *

(c) An appellant may also include one or more of the following in a notice of appeal: a request for oral presentation (§ 251.97); a request for stay of implementation of the decision pending decision on the appeal (§ 251.91); or, in those States with a Department of Agriculture certified mediation program, a request for mediation of grazing permit cancellation or suspensions pursuant to § 251.103.

4. Amend § 251.91 by revising paragraph (a) to read as follows:

§ 251.91 Stays.

(a) A decision may be implemented during the appeal process, unless the Reviewing Officer grants a stay or unless a term grazing permit holder appeals a decision and simultaneously requests mediation pursuant to § 251.103. In the case of mediation requests, a stay is granted automatically upon receipt of the notice of appeal for the duration of the mediation period as provided in § 251.103.

* * * * *

5. Amend § 251.92 by adding a new paragraph (a)(8) and by revising paragraph (c) to read as follows:

§ 251.92 Dismissal.

(a) * * *

(8) A mediated agreement is reached (§ 251.103).

* * * * *

(c) A Reviewing Officer's dismissal decision is subject to discretionary review at the next administrative level as provided for in § 251.87(d), except when a dismissal decision results from withdrawal of an appeal by an appellant, withdrawal of the initial decision by the Deciding Officer, or a mediated resolution of the dispute.

6. Amend § 251.93 by revising paragraph (b) to read as follows:

§ 251.93 Resolution of issues.

* * * * *

(b) When decisions are appealed, the Deciding Officer may discuss the appeal with the appellant(s) and intervenor(s) together or separately to narrow issues, agree on facts, and explore opportunities to resolve the issues by means other than review and decision on the appeal, including mediation pursuant to § 251.103. At the request of the Deciding Officer, the Reviewing Officer may extend the time period to allow for meaningful negotiations, except for appeals under review at the discretionary level. In the event of mediation of a grazing dispute under § 251.103, the Reviewing Officer may extend the time for mediation only as provided in § 251.103.

* * * * *

7. Amend § 251.94 by revising paragraph (b) to read as follows:

§ 251.94 Responsive statement.

* * * * *

(b) *Timeframe.* Unless the Reviewing Officer has granted an extension or dismissed the appeal, or unless mediation has been requested under this subpart, the Deciding Officer shall prepare a responsive statement and send it to the Reviewing Officer and all parties to the appeal within 30 days of receipt of the notice of appeal. Where mediation occurs but fails to resolve the issues, the Deciding Officer shall prepare a responsive statement and send it to the Reviewing Officer and all parties to the appeal within 30 days of the reinstatement of the appeal timeframes (§ 251.103(c)).

* * * * *

8. Add a new § 251.103 to subpart C to read as follows:

§ 251.103 Mediation of term grazing permit disputes.

(a) *Decisions subject to mediation.* In those States with Department of Agriculture certified mediation programs, any holder of a term grazing permit may request mediation, if a Deciding Officer issues a decision to

suspend or cancel a term grazing permit, in whole or in part, as authorized by 36 CFR 222.4 (a)(2)(i), (ii), (iv), (v), and (a)(3) through (a)(6).

(b) *Parties.* Notwithstanding the provisions addressing parties to an appeal at § 251.86, only the following may participate in mediation of term grazing permit disputes under this section:

(1) A mediator authorized to mediate under a Department of Agriculture State certified mediation program:

(2) The Deciding Officer who made the decision being mediated, or designee;

(3) The holder whose term grazing permit is the subject of the Deciding Officer's decision and who has requested mediation in the notice of appeal;

(4) The holder's creditors, if applicable; and

(5) Legal counsel, if applicable. The Forest Service will have legal counsel participate only if the permittee choose to have legal counsel.

(c) *Timeframe.* When an appellant simultaneously requests mediation at the time an appeal is filed (§ 251.84), the Reviewing Officer shall immediately notify, by certified mail, all parties to the appeal that, in order to allow for mediation, the appeal is suspended for 45 calendar days from the date of the Reviewing Officer's notice. If agreement has not been reached at the end of 45 calendar days, but it appears to the Deciding Officer that a mediated agreement may soon be reached, the Reviewing Officer may notify, by certified mail, all parties to the appeal that the period for mediation is extended for a period of up to 15 calendar days from the end of the 45-day appeal suspension period. If a mediated agreement cannot be reached under the specified timeframes, the Reviewing Officer shall immediately notify, by certified mail, all parties to the appeal that mediation was unsuccessful, that the stay granted during mediation is lifted, and that the timeframes and procedures applicable to an appeal (§ 251.89) are reinstated as of the date of such notice.

(d) *Confidentiality.* Mediation sessions shall be confidential; moreover, dispute resolution communications, as defined in 5 U.S.C. 571(5), shall be confidential. However, the final agreement signed by the Forest Service official and the permit holder is subject to public disclosure.

(e) *Records.* Notes taken or factual material received during mediation sessions are not to be entered as part of the appeal record.

(f) *Cost.* The United States Government shall cover only incurred expenses of its own employees in mediation sessions.

(g) *Exparte communication.* Except to request a time extension or communicate the results of mediation pursuant to paragraph (d) of this section, the Deciding Officer, or designee, shall not discuss mediation and/or appeal matters with the Reviewing Officer.

Dated: June 27, 1999.

Anne Kennedy,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 99–17936 Filed 7–13–99; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL186–1a; FRL–6374–1]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 14, 1995, May 9, 1996, June 14, 1996, February 1, 1999, and May 19, 1999, the State of Illinois submitted State Implementation Plan (SIP) revision requests to meet commitments related to our conditional approval of Illinois' May 15, 1992, SIP submittal for the Lake Calumet (Southeast Chicago), McCook, and Granite City, Illinois, Particulate Matter (PM) nonattainment areas. EPA is approving the SIP revision request as it applies to the Lake Calumet area, including the attainment demonstration for the Lake Calumet PM nonattainment area. The SIP revision request corrects, for the Lake Calumet PM nonattainment area, all of the deficiencies of the May 15, 1992, submittal (as discussed in the November 18, 1994, conditional approval notice). EPA is also removing the codification of the conditional approval and codifying the final portions of Illinois' part D plan for the Granite City, Lake Calumet, and McCook moderate PM nonattainment areas. EPA is approved the Granite City PM plan, effective May 11, 1998, and the McCook PM plan, effective November 9, 1998.

DATES: This rule is effective on September 13, 1999, unless EPA receives written adverse comments by August 13, 1999. If written adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the revision request and EPA's analysis at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: David Pohlman at (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean EPA.

Table of Contents

I. What is the background for this action?
II. How has Illinois corrected the emissions inventory?
A. Quench towers.
B. Basic oxygen furnace (BOF) roof monitors.
C. Rotary kiln incinerator at CWM Chemical Services.
III. What does the revised attainment demonstration predict about air quality?
IV. How has Illinois addressed maintenance of the PM National Ambient Air Quality Standards (NAAQS)?
V. What has Illinois done to provide opacity limits for coke oven combustion stacks?
VI. How has Illinois corrected the wording problems with the State rules?
VII. EPA rulemaking action.
VIII. Administrative requirements.
A. Executive Order 12866
B. Executive Order 12875
C. Executive Order 13045
D. Executive Order 13084
E. Regulatory Flexibility Act
F. Unfunded Mandates
G. Submission to Congress and the Comptroller General
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act
J. Petitions for Judicial Review

I. What is the background for this action?

Under section 107(d)(4)(B) of the Clean Air Act (Act), as amended on November 15, 1990 (amended Act), certain areas (''initial areas'') were designated nonattainment for PM. Under section 188 of the amended Act these initial areas were classified as ''moderate''. The initial areas included the Lake Calumet, McCook, and Granite City, Illinois, PM nonattainment areas.