

the nearest multiple of \$10 (rounding up if the amount is a multiple of \$5).

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Par. 13. Section 301.7430-5 is amended by:

1. Revising paragraph (a).
2. Adding paragraph (c)(3).

The addition and revision read as follows:

§ 301.7430-5 Prevailing party.

(a) *In general.* For purposes of an award of reasonable administrative costs under section 7430 in the case of administrative proceedings commenced after July 30, 1996, a taxpayer is a prevailing party only if—

(1) The position of the Internal Revenue Service was not substantially justified;

(2) The taxpayer substantially prevails as to the amount in controversy or with respect to the most significant issue or set of issues presented; and

(3) The taxpayer satisfies the net worth and size limitations referenced in paragraph (f) of this section.

* * * * *

(c) * * *

(3) *Presumption.* If the Internal Revenue Service did not follow any applicable published guidance in an administrative proceeding commenced after July 30, 1996, the position of the Internal Revenue Service, on those issues to which the guidance applies and for all periods during which the guidance was not followed, will be presumed not to be substantially justified. This presumption may be rebutted. For purposes of this paragraph (c)(3), the term applicable published guidance means final or temporary regulations, revenue rulings, revenue procedures, information releases, notices, announcements, and, if issued to the taxpayer, private letter rulings, technical advice memoranda, and determination letters (see § 601.601(d)(2) of this chapter). Also, for purposes of this paragraph (c)(3), the term administrative proceeding includes only those administrative proceedings or portions of administrative proceedings occurring on or after the administrative proceeding date as defined in § 301.7430-3(c).

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Par. 14. Section 301.7430-6 is revised to read as follows:

§ 301.7430-6 Effective dates.

Sections 301.7430-2 through 301.7430-6, other than §§ 301.7430-2(b)(2), (c)(3)(i)(B), (c)(3)(ii)(C), and (c)(5); §§ 301.7430-4(b)(3)(i), (b)(3)(ii), (b)(3)(iii)(B), (b)(3)(iii)(C), (b)(3)(iii)(D), and (c)(2)(ii); and §§ 301.7430-5(a) and

(c)(3), apply to claims for reasonable administrative costs filed with the Internal Revenue Service after December 23, 1992, with respect to costs incurred in administrative proceedings commenced after November 10, 1988. Section 301.7430-2(c)(5) is applicable March 23, 1993. Sections 301.7430-2(b)(2), (c)(3)(i)(B), and (c)(3)(ii)(C); 301.7430-4(b)(3)(i), (b)(3)(ii), (b)(3)(iii)(B), (b)(3)(iii)(C), (b)(3)(iii)(D), and (c)(2)(ii); and 301.7430-5(a) and (c)(3) are applicable for administrative proceedings commenced after July 30, 1996.

Dated: June 27, 1997.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved:

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 97-19052 Filed 7-21-97; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 32

[OJP(BJA)-1121]

RIN 1121-AA44

Federal Law Enforcement Dependents Assistance Program; Correction

AGENCY: Office of Justice Programs, Bureau of Justice Assistance, Public Safety Officers' Benefits Office, Justice.
ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final regulations that were published Tuesday, July 15, 1997 (62 FR 37713). These regulations were issued to comply with the Federal Law Enforcement Dependents Assistance (FLEDA) Act of 1996.

DATES: This correction is effective July 22, 1997.

FOR FURTHER INFORMATION CONTACT: Jeff Allison, Chief, Public Safety Officers' Benefits Office, 633 Indiana Avenue, NW., Washington, DC 20531. Telephone: (202) 307-0635.

SUPPLEMENTARY INFORMATION: The final regulations that are the subject of these corrections were drafted in accordance with the Federal Law Enforcement Dependents Assistance Act, Pub. L. 104-238, 110 Stat. 3114, Oct. 3, 1996, which established a new subpart 2 in Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3796 *et seq.* to provide financial assistance to the children and spouses of Federal civilian law enforcement

officers killed or permanently and totally disabled in the line of duty.

Executive Order 12866

This regulation has been written and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Office of Justice Programs has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: The FLEDA program will be administered by the Office of Justice Programs, and any funds distributed under it shall be distributed to individuals, not entities, and the economic impact is limited to the Office of Justice Program's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private section, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in cost or prices; or

significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

The collection of information requirements contained in the proposed regulation will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3504(h)).

The Need for Correction

The following language was omitted from the comment section: In the proposed rule, § 32.35(b) allowed for exceptions to the requirement that applications for retroactive assistance must be submitted within five years of the last date the applicant pursued such program of education. Upon further reflection, the phrase "absent compelling justification" will be eliminated. Given the retroactive date established by Congress, and the family notification process being developed by the Bureau, it is difficult to envision circumstances wherein an otherwise eligible student would not be able to submit their application for retroactive assistance within five years after the last date he or she pursued such program of education.

Correction of Publication

Accordingly, the publication on Tuesday, July 15, 1997, of the final regulations at 62 FR 37713 is corrected as follows:

§ 32.35 [Corrected]

On page 37717, in the first column, in § 32.35(b), at the beginning of the second sentence remove, the words "absent compelling justification,".

Nancy Gist,

Director, Bureau of Justice Assistance.

[FR Doc. 97-19220 Filed 7-21-97; 8:45 am]

BILLING CODE 4410-18-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN44-01-7269a; FRL-5861-6]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) is conditionally approving a revision to the Minnesota State Implementation Plan (SIP) for the Saint Paul particulate matter (PM) nonattainment area, located in Ramsey County Minnesota. The SIP was submitted by the State for the purpose of bringing about the attainment of the PM National Ambient Air Quality Standards (NAAQS). The rationale for the conditional approval and other information are provided in this notice.

DATES: This "direct final" rule is effective September 22, 1997, unless EPA receives adverse or critical comments by August 21, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of this SIP revision and EPA's analysis are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353-8328, before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353-8328.

SUPPLEMENTARY INFORMATION:

I. Background

Upon enactment of the Clean Air Act Amendments of 1990, certain areas were designated nonattainment for M and classified as moderate under sections 107(d)(4)(B) and 188(a) of the amended Clean Air Act (Act). See 56 FR 56694 (November 6, 1991) and 57 FR 13498, 13537 (April 16, 1992). A portion of the St. Paul area was designated nonattainment thus requiring the State to submit SIP revisions by November 15, 1991, satisfying the attainment demonstration requirements of the Act.

The State submitted SIP revisions and intended to meet these requirements in 1991 and 1992. The enforceable element of the State's submittals were administrative orders for nine facilities in the St. Paul area. On February 15, 1994 at 59 FR 7218, EPA took final action to approve Minnesota's submittals as satisfying the applicable requirements for the St. Paul M

nonattainment area. The EPA also made a final determination pursuant to section 189(e) that secondary PM formed from PM precursors does not contribute significantly to exceedances of the NAAQS.

The EPA received a request from the Minnesota Pollution Control Agency (MPCA) on February 9, 1996 to revise the PM SIP for Ramsey County, Minnesota. The revision to the SIP is for the control of PM emissions from certain sources located along Red Rock Road (Red Rock Road Area), within the boundaries of Ramsey County. The SIP revision request was reviewed for completeness based on the completeness requirements contained in Title 40 of the Code of Federal Regulations, part 51, appendix V. The EPA determined the submittal to be complete, and notified the State of Minnesota in a May 6, 1996 letter from Valdas Adamkus, EPA to Charles Williams, MPCA.

Red Rock Road Area. St. Paul has three "pockets" of M problems in the nonattainment area: University Avenue/ Mississippi Street, Childs Road, and Red Rock Road. At the time of the original air dispersion modeling and the SIP revision submittals (1992), MPCA staff believed all culpable sources were accounted for and that the control strategies demonstrated in the modeling and the Administrative Orders would be adequate for the area to attain the PM NAAQS. However, exceedances have been recorded between 1992 and 1995 at an ambient monitor located at 1303 Red Rock Road.

Two facilities on Red Rock Road have administrative orders that are part of the 1992 M SIP: Commercial Asphalt, Inc. (a subsidiary of Tiller Corporation), and North Star Steel Company. The MPCA believes that these sources were not culpable for a major fraction of these M exceedances (based upon microscopic analysis of the filters and wind directions during the relevant days).

Since the original air quality dispersion modeling for the SIP was completed, several small sources, whose activities did not require permits, have located along Red Rock Road. Consequently, the changes in land use has resulted in increased vehicle traffic on unpaved roads. Because of the changing dynamics of the area, MPCA recognized that the M SIP submitted in 1992 no longer accurately characterized the area.

After reviewing the data collected from air monitoring, site visits, and meetings with sources in the area, MPCA staff concluded that the changes along Red Rock Road are the cause of the recent problems in the area, and not