(a)(6) as paragraphs (a)(5), (a)(6) and (a)(8), respectively; and adding new paragraphs (a)(4) and (a)(7) to read as follows:

§ 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.

(a) * * *

(4) On or after December 1, 1999, remarriage of a surviving spouse terminated by death, divorce, or annulment, will not bar the furnishing of benefits relating to medical care for survivors and dependents under 38 U.S.C. 1713, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37, unless the Secretary determines that the divorce or annulment was secured through fraud or collusion.

(Authority: 38 U.S.C. 103(d))

* * * * *

(7) On or after December 1, 1999, the fact that a surviving spouse has lived with another person and has held himself or herself out openly to the public as the spouse of such other person will not bar the furnishing of benefits relating to medical care for survivors and dependents under 38 U.S.C. 1713, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37 to the surviving spouse if he or she ceases living with such other person and holding himself or herself out openly to the public as such other person's spouse.

(Authority: 38 U.S.C. 103(d)).

* * * * *

4. Section 3.309 is amended by adding paragraph (d)(2)(xvi) and an authority citation after the Note to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(d) * * *

(2) * * *

(xvi) Bronchiolo-alveolar carcinoma.

* * * * *

(Authority: 38 U.S.C. 1112(c)(2))

[FR Doc. 00–17901 Filed 7–13–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6729–7]

Finding of Failure To Submit a Required State Implementation Plan for Carbon Monoxide; Anchorage, AK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Finding of Failure to Submit.

SUMMARY: EPA is taking final action in making a finding, under the Clean Air Act (CAA or Act), that Alaska failed to make a carbon monoxide (CO) nonattainment area state implementation plan (SIP) submittal required for Anchorage under the Act. Under certain provisions of the Act, states are required to submit SIPs providing for, among other things, reasonable further progress and attainment of the CO national ambient air quality standards (NAAQS) in areas classified as serious. The deadline for submittal of this plan for Anchorage was January 13, 2000. This action triggers the 18-month time clock for mandatory application of sanctions and the two-year time clock for a federal implementation plan (FIP) under the Act. This action is consistent with the CAA mechanism for assuring SIP submissions.

EFFECTIVE DATE: This action is effective as of July 13, 2000.

ADDRESSES: Written comments should be addressed to: Ms. Debra Suzuki, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: John Pavitt, U.S. EPA, Region 10, Alaska Operations Office, 222 W. 7th Avenue, #19, Anchorage, Alaska 99513–7588, Telephone (907) 271–5083.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA Amendments of 1990 were enacted on November 15, 1990. Under section 107(d)(1)(c) of the amended CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Anchorage area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Anchorage area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56846 (November 6, 1991).

(1) The CO nonattainment area is the ''Anchorage Area, Anchorage Election District (part), Anchorage nonattainment area boundary.'' 40 CFR 81.302.

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit SIPs designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. Under section 186(a)(4), Alaska requested and EPA granted a one-year extension of the December 31, 1995 attainment deadline (61 FR 33676, June 28, 1996).

(2) The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is above or below 12.7 ppm. The Anchorage area has a design value above 12.7 ppm. 40 CFR 81.302.

Anchorage exceeded the CO NAAQS three times during calendar year 1996. On June 12, 1998, EPA made a final finding that the Anchorage CO nonattainment area did not attain the CO NAAQS under the CAA-mandated attainment date after having received a one-year extension from the mandated attainment date of December 31, 1995 for moderate nonattainment areas to December 31, 1996. As a result of that finding, which went into effect on July 13, 1998, (63 FR 32128, June 12, 1998) the Anchorage, Alaska CO nonattainment area was reclassified as serious. The State had 18 months or until January 13, 2000 to submit a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious areas. Anchorage complied with the CO NAAQS in 1997, 1998, and 1999, with one or fewer exceedances recorded in each of these years, and no exceedances in the year 2000 to date.

The Alaska Department of Environmental Conservation (ADEC) and the Municipality of Anchorage (MOA) have been conducting local research aimed at quantifying the impact of motor vehicle cold start emissions and warm-up idling on ambient CO in Anchorage. The local research program included: (1) A CO saturation monitoring study to better characterize the nature of the CO problem in Anchorage's neighborhoods and near major roadways; (2) a driver

idling behavior study to quantify the prevalence and duration of extended warm-up idling among Anchorage drivers in the winter months; (3) cold weather motor vehicle emission testing to quantify the proportion of emissions that occur during cold starts and warm-up idles; and (4) a ''real world'' CO emissions inventory that would better reflect unique winter season driving behaviors and cold weather motor vehicle emissions. MOA and ADEC anticipate that the information provided by these studies will be critical to the preparation of a credible SIP. Notwithstanding significant efforts to complete its CO SIP, the State failed to meet the January 13, 2000 deadline for the required SIP submission. EPA is therefore compelled to find that the State of Alaska has failed to make the required SIP submission for Anchorage. The CAA establishes specific consequences if EPA finds that a State has failed to meet certain requirements of the CAA. Of particular relevance here is CAA section 179(a)(1), the mandatory sanctions provisions. Section 179(a) sets forth four findings that form the basis for applications of a sanction. The first finding, that a State has failed to submit a plan required under the CAA, is the finding relevant to this rulemaking.

If Alaska has not made the required complete submittal by January 13, 2002, pursuant to CAA section 179(a) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b) will be applied in the affected area. If the State has still not made a complete submission by July 13, 2002, then the highway funding sanction will apply in the affected area, in accordance with 40 CFR 52.31. In addition, CAA section 110(c) provides that EPA must promulgate a federal implementation plan (FIP).

(3) In a 1994 rulemaking, EPA established the Agency's selection of the sequence of these two sanctions: the offset sanction under section 179(b)(2) shall apply at 18 months, followed six months later by the highway sanction under section 179(b)(1) of the Act. EPA does not choose to deviate from this presumptive sequence in this instance. For more details on the timing and implementation of the sanctions, see 59 FR 39832 (August 4, 1994), promulgating 40 CFR 52.31, ''Selection of sequence of mandatory sanctions for findings made pursuant to section 179 of the Clean Air Act.''

The sanctions will not take effect if, before January 13, 2002, EPA finds that the State has made a complete submittal of a plan addressing the serious area CO requirements for Anchorage. In addition, EPA will not promulgate a FIP if the State makes the required SIP submittal and EPA takes final action to approve the submittal before July 13, 2002 (section 110(c)(1) of the Act). EPA encourages the responsible parties in Alaska to continue working together on a CO SIP which can eliminate the need for potential sanctions and a FIP.

II. Final Action

A. Rule

Today, EPA is making a finding of failure to submit for the Anchorage CO nonattainment area, due to failure of the State to submit a SIP revision addressing the serious area CO requirements of the CAA.

B. Effective Date Under the Administrative Procedures Act

EPA has issued this action as a rulemaking because the Agency has treated this type of action as rulemaking in the past. However, EPA believes that it has the authority to issue this action in an informal adjudication, and is considering which administrative process—rulemaking or informal adjudication—is appropriate for future actions of this kind. Because EPA is issuing this notice as a rulemaking, the Administrative Procedures Act (APA) applies. Today's notice is effective as of July 13, 2000. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if an agency has good cause to mandate an earlier effective date. Today's action concerns a SIP submission that is already overdue and the State is aware of the applicable provisions of the CAA relating to overdue SIPs. In addition, today's action simply starts a ''clock'' that will not result in sanctions for 18 months, which the State may ''turn off'' through the submission of a complete SIP submittal. These reasons support an effective date prior to 30 days after the date of publication.

C. Notice-and-Comment Under the Administrative Procedures Act

This notice is a final agency action, but is not subject to the notice-and-comment requirements of the APA, 5 U.S.C. 533(b). EPA believes that because of the limited time provided to make findings of failure to submit regarding SIP submissions, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(d)(3). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure to submit SIPs required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see Section II.C in this **Federal Register** action), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action is not a regulation that will have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This action does not involve technical standards; 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. The action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729,

February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This action 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of July 13, 2000. 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 12, 2000. 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, Intergovernmental relations.

Dated: June 26, 2000.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 00–17190 Filed 7–13–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[KS 105–1105a; FRL–6733–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators (HMIWI); State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the state of Kansas' section 111(d) plan for controlling emissions from existing HMIWIs. The plan was submitted to fulfill the requirements of sections 111 and 129 of the Clean Air Act (CAA). The state plan establishes emission limits and controls for sources constructed on or before June 20, 1996.

DATES: This rule is effective on September 12, 2000 without further notice, unless EPA receives adverse comment by August 14, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Wayne Kaiser, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What are the requirements of section 129 of the CAA?

What is a section 111(d) state plan?

What is Subpart Ce?

What are the requirements for the HMIWI state plan? What is contained in the Kansas state plan?

What are the approval criteria for the state plan?

What Are the Requirements of Section 129 of the CAA?

Section 129 of the CAA Amendments of 1990 requires us to set air emission standards and emission guidelines (EG) under the authority of section 111 of the CAA to reduce pollution from incinerators that burn solid waste. Incinerators that burn medical waste are classified as solid waste incinerators and therefore must be regulated.

What Is a Section 111(d) State Plan?

Section 111(d) of the CAA, ''Standards of Performance for New Stationary Sources,'' authorizes us to set air emissions standards for certain categories of sources. These standards are called new source performance standards (NSPS). When an NSPS is promulgated for new sources, we also publish an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop a state plan to adopt the EG into its body of regulations and submit it to us for approval. The state plan is called a 111(d) plan.

What Is Subpart Ce?

We issued regulations to reduce air pollution from incinerators that are used to burn hospital waste and/or medical/infectious waste. The NSPS at 40 CFR Part 60, Subpart Ec, and the EG, Subpart Ce, were promulgated by us on September 15, 1997 (62 FR 48374). These rules apply to new and existing incinerators used by hospitals and health care facilities, as well as to incinerators used by commercial waste disposal companies to burn hospital waste and/or medical/infectious waste. The EG applies to existing HMIWIs that commenced construction on or before June 20, 1996.

The Subpart Ce EG is not a direct Federal regulation but is a ''guideline'' for states to use in regulating existing HMIWIs. The EG requires states to submit for our approval a section 111(d) state plan containing air emission regulations and compliance schedules for existing HMIWIs.

What Are the Requirements for the HMIWI State Plan?

A section 111(d) state plan submittal must meet the requirements of 40 CFR Part 60, Subpart B, sections 60.23 through 60.26, and 40 CFR Part Ce. Subpart B addresses public participation, legal authority, emission standards and other emission limitations, compliance schedules,