200,000 cubic yard limitation arose from a situation in California wherein a claimant mining locatable minerals on a National Forest might have been forced to periodically cease operations because the claimant was close to exceeding the 200,000 cubic yard limitation on sand and gravel then in effect. This claimant has a mining operation for locatable minerals which yields sand and gravel as a by-product. Since the sand and gravel production is an integral part of the mining operation, it is impractical to offer the material competitively. Thus, the sand and gravel had been disposed of through noncompetitive sales to the claimant.

Prior to 1987, by-product sand and gravel had been of small enough volumes that the yardage limitation had not posed a problem. However, in 1987, increased production of locatable minerals began. This resulted in more sand and gravel being produced than could have been accommodated noncompetitively under the existing regulations. This situation convinced the Agency that it needed the flexibility to meet such needs in the future, wherever they may arise.

In addition to this type of production situation, future emergency needs for disposal of more than 200,000 cubic yards of mineral materials might not permit the time-consuming competition required by 36 CFR 228.58. An emergency might include a situation such as large volumes of sand and gravel being needed for constructing dikes during floods. Without a means to exceed the volume limitations, the Agency could not legally respond to such an emergency.

Thus the Agency promulgated an interim rule that allowed the Chief to authorize noncompetitive sale of larger volumes upon a finding that the larger volume is necessary: (1) To respond to emergency situations; (2) to prevent the curtailment of locatable mineral operations which generate large volumes of mineral materials as a by-product; or, (3) to respond to a critical public need for the prompt development of mineral leases or mining claims on federal lands.

The Forest Service invited the public to comment on the interim rule for consideration in development of this final rule. However, no public comments were received.

The interim rule has been applied three times during the year it has been in effect. In addition to the previously cited situation, it was used in connection with a locatable mineral operation in Alaska and with a leasable mineral operation in Wyoming. The interim rule proved to be an effective remedy in all three of the situations in which it was applied.

Therefore, in light of Agency experience under the interim rule and the absence of any comments on the rule, the Department is adopting the interim rule as a final rule without change. Because the interim rule has been in place for a year and the final rule is identical to the interim, good cause exists for making the rule effective upon publication.

This rule has been reviewed under Executive Order 12291 and USDA procedures and it has been determined that this rule is not a major rule. Additionally, it will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This authority is equally applicable to all entities, whether large or small. The final rulemaking contains no information collection requirements requiring the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.*

Based on both past experience and environmental analysis, this final rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4).

List of Subjects in 36 CFR Part 228

Administrative practice and procedure; Environmental protection; Mines; National forests; Public lands—Mineral resources; Rights of way; Reporting and recordkeeping requirements; Surety bonds; Wilderness areas.

PART 228—MINERALS

Subpart C—Disposal of Mineral Materials.

Therefore, for the reasons set forth in the preamble, the interim rule amending 36 CFR 228.59, which was published at 52 FR 10564 on April 2, 1987, is adopted as a final rule without change.

Date: October 6, 1988.

Richard E. Lyng,

Secretary.

[FR Doc. 88-25012 Filed 10-27-88; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3449-1]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's rulemaking takes final action to approve the carbon monoxide (CO) state implementation plan (SIP) for the Wichita, Kansas, area. EPA proposed approval of the Wichita CO plan on March 31, 1988 (53 FR 10399) in response to a submittal from the Kansas Department of Health and Environment. EPA received no comments from the public during the comment period. Today's action will make the Wichita CO SIP completely approved.

EFFECTIVE DATE: November 28, 1988.

ADDRESSES: Copies of the state submission are available for public inspection at the Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101; Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620; and Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (913) 236-2893; FTS 757-2893.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8964), EPA designated a portion of Wichita, Kansas, nonattainment with respect to the CO primary National Ambient Air Quality Standard (NAAQS) as required by Section 107(d) of the Clean Air Act, as amended in 1977.

The state submitted a CO plan for Wichita on April 16, 1981. This plan was approved by EPA on January 22, 1982 (47 FR 3113). On February 3, 1983 (48 FR 4972), EPA identified Wichita, Kansas, as a nonattainment area unlikely to attain the CO standard by the December 31, 1982, attainment date. This determination was based upon air quality data from 1980, 1981, and 1982. Violations were found in each of those years.

On February 29, 1984, EPA notified the state of Kansas under authority of Section 110(a)(2)(H) of the Act, that the CO SIP for Wichita was substantially inadequate to attain the CO standard.

EPA extended the time required under section 110(c)(1)(C) for plan revision to one year. EPA requested that the state submit a schedule for plan development within 60 days of the date of notification. EPA received that schedule on May 23, 1984.

In response to the call for a SIP revision, the state of Kansas submitted a revised CO SIP for Wichita on March 1, 1985. Since there are no significant stationary CO sources in Wichita, the original plan approved by EPA depended upon transportation control measures (TCM) for CO emissions reductions. The plan revision submitted in 1985 contained an additional TCM and a commitment to continue the city's voluntary inspection and maintenance (I/M) program through 1986. Further, the plan submittal contained a modeling analysis projecting attainment of the CO standard by 1987 even without additional TCMs. Most of the CO emissions reductions were because of federally mandated automobile emissions control. This modeling study was included as part of the attainment demonstration.

The 1985 SIP revision contained a request for redesignation to attainment. The modeling analysis and air quality monitoring data were sufficient to support redesignation. EPA proposed approval of the SIP revision and the redesignation request on December 20, 1985 (50 FR 51887). For a more detailed discussion on the rationale for approval, the reader should review the **Federal Register** notice cited above and the technical support document.

EPA did not proceed to final rulemaking on the December 20, 1985, proposed rule for three reasons: (1) the one TCM in the SIP revision was discontinued by the city, (2) there was a discontinuity in the CO monitoring data, and (3) violations were recorded in March 1986. Thus, EPA was unable to approve the revision at that time. Additionally, on May 14, 1986, the KDHE advised EPA that since there was inadequate CO data upon which to base a redesignation, EPA should withhold further action on the redesignation request.

On September 3, 1987, KDHE submitted supplemental information applicable to the Wichita CO SIP. The submittal included two new TCMs adopted by the Wichita City Council to replace the discontinued TCM. On March 3, 1988 (53 FR 10399), EPA again proposed approval of the Wichita CO SIP including the supplemental TCMs. That notice also withdrew the redesignation proposal because of insufficient data to support redesignation to attainment for CO. That proposed rulemaking acknowledged there were three quarters of data in1986 and three quarters in 1987 showing no exceedance of the CO air quality standard. No comments were received on the proposal.

Wichita appeared on the list of potential SIP call areas in Appendix A of EPA's proposed ozone and carbon monoxide policy (52 FR 45044, November 24, 1987). However, EPA examined the CO monitoring data from Wichita and found no exceedances in 1987 and no exceedances in the first quarter 1988. These air quality data support the Wichita modeling study that projected attainment by December 31, 1987. For the reasons discussed above, EPA believes the SIP is adequate for attainment and maintenance of the CO standard. ACTION: EPA approves the Wichita CO SIP revision submitted on March 1, 1985, with the two new TCMs replacing the left turn ban contained in the control strategy in that submittal. These new TCMs are: (1) computerized signalization project, and (2) the overpass over Kellogg Avenue as part of the Wichita CO SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Reporting and recordkeeping requirements, Incorporation by reference.

Note: Incorporation by reference of the SIP for the state of Kansas was approved by the Director of the **Federal Register** on July 1, 1982.

Date: September 12, 1988.

Lee M. Thomas,

Administrator.

40 CFR Part 52, Subpart R, is amended as follows:

PART 52—[AMENDED]

Subpart R—Kansas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.870 is amended by adding paragraph (c)(22) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

(22) On March 1, 1985, the Governor of Kansas submitted a revised carbon monoxide state implementation plan for Wichita, Kansas. On September 3, 1987, The Kansas Department of Health and Environment submitted two new transportation control measures as part of the revised Wichita carbon monoxide control plan.

(i) Incorporation by reference. (A) Letter of September 3, 1987, from the Kansas Department of Health and Environment and attached transportation control measures adopted August 18, 1987.

(B) Revision of the Wichita-Sedgwick County Portion of the Kansas State Implementation Plan for Carbon Monoxide submitted by the Governor on March 1, 1985. The plan contains an attainment demonstration, emissions inventory, and a control strategy.

3. The table in § 52.879 is revised to read as follows:

§ 52.879 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant							
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)	Lead
	Primary	Secondary	Primary	Secondary				
Metropolitan Kansas City Interstate	e	a	c	c	c	5/31/77	e	c
South Central Kansas Intrastate	a	a	c	c	c	g	a	c
Northeast Kansas Intrastate	a	a	c	c	c	c	e	c

Air quality control region	Pollutant							
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)	Lead
	Primary	Secondary	Primary	Secondary				
Southeast Kansas Intrastate	c	c	c	c	c	c	c	c
North Central Kansas Intrastate	a	a	c	c	c	c	c	c
Northwest Kansas Intrastate	a	a	c	c	c	c	c	c
Southwest Kansas Intrastate	a	a	c	c	c	c	c	c

NOTE: Sources subject to plan requirements and attainment dates established under section 110(a)(2)(A) prior to the 1977 Clean Act Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52 (1980) § 52.879.

a. July 1975.
b. Five years from plan approval or promulgation
c. Air quality levels presently below secondary standards.
d. Transportation and/or land use control strategy to be submitted no later than April 15, 1973.
e. December 31, 1982.
f. Secondary standard attainment date to be determined by secondary attainment plan.
g. EPA called for a SIP revision on February 29, 1984. EPA approved the new attainment date of December 31, 1987, in the revised Wichita CO SIP.

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BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6813]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, the community will not be suspended and the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: As shown in fifth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, Federal Center Plaza, 500 C Street SW., Room 416, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the Federal Register that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the criteria at 44 CFR 60.7 require communities to revise their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt and submit the required documentation of legally enforceable revised floodplain management regulations after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

The Administrator finds that notice and public procedures under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 90- and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to adopt adequate floodplain management measures, thus placing itself in noncompliance with the Federal standards required for community participation.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.