Comment". Since no one requested an opportunity to testify, the public hearing scheduled for May 18, 1987 was cancelled.

III. Director's Findings

After a thorough review pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds that the proposed amendments, as submitted on March 20, 1987, are no less stringent than the requirements of SMCRA and no less effective than the corresponding Federal regulations. As discussed in the section of this notice entitled "Submission of Amendment", the modifications to sections 480-03-19.784.20(f)(2) and 480-03-19.817.121(c)(2) of the Virginia regulations are substantively identical to the corresponding Federal regulations at 30 CFR 784.20(g)(2) and 817.121(c)(2), respectively, as revised on February 17, 1987.

IV. Public Comment

As discussed in the section of this notice entitled "Submission of Amendment", the Director solicited public comment and provided an opportunity for a public hearing on the proposed amendment. Consolidation Coal Company and the Joint National Coal Association/American Mining Congress Committee on Surface Mining Regulations submitted letters in support of the proposed amendment. No other public comments were received, and no public hearing was requested or held.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies with an actual or potential interest in the Virginia program. Acknowledgements with no comments were received from the Bureau of Land Management and the Annapolis Field Office of the Fish and Wildlife Service. The Environmental Protection Agency stated that section 480-03-19.817.121(d) provided inadequate protection to water resources. While this comment lies outside the scope of this rulemaking since the cited regulation is not the subject of this amendment, the Director notes that the Virginia provisions are identical to and thus no less effective than the corresponding Federal provisions at 30 CFR 817.121(d). No responses were received from the other agencies solicited.

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment and removing the disapproval previously placed on its provisions. However, the Director notes that the Federal regulations on which the Virginia amendment is based are the subject of a pending lawsuit *(National Wildlife Federation v. Hodel,* Civil Action No. 87-1051, D.D.C., filed April 15, 1987) and that, depending on the outcome of that litigation, Virginia may need to further amend these rules in the future.

The Federal rules at 30 CFR Part 946 codifying decisions concerning the Virginia program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 9, 1987.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 946—VIRGINIA

30 CFR Part 946 is amended as follows:

1. The authority citation for Part 946 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 946.12 [Amended]

2. In § 946.12, paragraph (b)(3) is removed.

3. In § 946.15, a new paragraph (s) is added to read as follows:

§ 946.15 Approval of regulatory program amendments.

* * * * *

(s) The following amendment to the Virginia permanent regulatory program, as submitted by letter of March 20, 1987, is approved effective July 17, 1987: Addition of the phrase "to the extent required under State law" to sections 480-03-19.784.20(f)(2) and 480-03-19.817.121(c)(2) of the Virginia Coal Surface Mining Reclamation Regulations.

[FR Doc. 87-16242 Filed 7-16-87; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3230-1; Docket No. A-87-05]

Approval and Promulgation of Implementation Plans; Vermont; Visibility in Federal Class I Areas; Lye Brook Wilderness

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving parts and taking no action on other parts of State Implementation Plan (SIP) revisions submitted by the State of Vermont pursuant to section 169A of the Clean Air Act. These revisions set forth a plan to address manmade visibility impairment in the Lye Brook Wilderness, a mandatory Class I federal area. EPA is approving those parts of the revisions which fulfill the requirements of EPA's existing visibility regulations concerning plume blight, i.e., visibility impairment that can be traced to a single source or small group of sources using simple monitoring techniques. EPA is taking no action on those parts of the revisions concerning visibility impairment attributable to regional haze caused by pollutants that may be transported and transformed in the atmosphere over long distances. EPA is also taking no action on Vermont's request to extend

applicability of its plan to additional areas outside of the Lye Brook Wilderness. Although it was not part of Vermont's visibility protection plan, EPA is denying today Vermont's accompanying request to disapprove the SIPs of eight states, and denying its request to add four states to the list of states which EPA has required to develop visibility protection plans.

EFFECTIVE DATE: This action will be effective August 17, 1987.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the JFK Federal Building, Room 2311, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street SW., Washington, DC 20460; and the Vermont Agency of Environmental Conservation, Air Pollution Control Division, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

FOR FURTHER INFORMATION CONTACT: Susan Kulstad, (617) 565–3226; FTS 835–3226.

SUPPLEMENTARY INFORMATION: On December 2, 1986, EPA published a Notice of Proposed Rulemaking for revisions to the Vermont State Implementation Plan (SIP) that would provide for visibility protection in the Lye Brook Wilderness. 51 FR 43389. The proposed rulemaking responded to revisions to the Vermont SIP submitted by the Governor of Vermont on April 22, 1986.

EPA proposed to approve those provisions of Vermont's submission which fulfill the requirements of 40 CFR Part 51, Subpart P (§ 51.300 et seq.), concerning visibility impairment that can be traced to a single source or small group of sources using simple monitoring techniques. These so-called "plume blight" provisions, submitted by Vermont, which EPA is today approving as satisfying its visibility protection regulations, are: (1) The new source review procedures, excluding those that address sulfate standards; (2) the showing that best available retrofit technology (BART) is unnecessary for existing Vermont stationary sources; (3) the long-term strategy, excluding the 48-state emissions reduction plan; and (4) the monitoring program.

EPA proposed to take no action on two portions of Vermont's submission pertaining to the control of regional haze caused by pollutants that may be transported and transformed in the atmosphere over long distances. These two portions involve the establishment of ambient sulfate standards, and the portion of Vermont's long-term strategy outlining a phased emissions reduction plan to achieve a uniform statewide average sulfur dioxide (SO_2) emission rate and added nitrogen oxides (NO_x) controls among 48 states. Additionally, EPA proposed to take no action on a third portion of Vermont's submittal which extends applicability of the plan to additional "sensitive areas."

Vermont included in its submission modeling results which identify eight states—Ohio, Pennsylvania, West Virginia, Kentucky, Tennessee, Illinois, Indiana, and Michigan—whose emissions significantly contribute to impairment of visibility in the Lye Brook Wilderness. Although not part of the state's visibility protection plan, Vermont asked EPA to disapprove immediately the SIPs of these eight states because they do not contain adequate provisions to prohibit emissions which interfere with Vermont's visibility. Vermont also asked EPA to add four states—Ohio, Pennsylvania, Illinois, and Indiana—to the list of those states EPA has required to develop visibility protection plans. To date, EPA has not listed these four states because they do not contain mandatory Class I federal areas. EPA is today affirming its decision to not make SIP calls and to not list additional states until EPA promulgates regulations to address interstate regional haze impairment.

EPA received eight sets of comments representing the views of fifteen organizations and states in response to the proposed rulemaking. None of the commenters took issue with EPA's proposal to approve those portions of Vermont's program which satisfy the requirements of EPA's existing visibility regulations. Only in the context of disagreeing with EPA's proposal to take no action on portions of Vermont's program and instead, advocating that EPA approve the state's entire program, did commenters address EPA's proposed disposition on the broader applicability of Vermont's plan to protect additional "sensitive areas." The other provisions concerning ambient sulfate standards and a 48-state emissions reduction plan, for which EPA proposed no action, as well as EPA's accompanying interpretation of the Clean Air Act ("the Act") and its regulations, received extensive comment, both favorable and unfavorable. Extended discussion of the specific measures contained in Vermont's program and the rationale for EPA's proposed action on each is presented in the Notice of Proposed Rulemaking, and so will not be restated here.

In proposing no action on the regional haze provisions of Vermont's plan, EPA acknowledged that Vermont's visibility impairment is predominantly due to out-of-state sulfur emissions, but noted that its visibility regulations, promulgated on December 2, 1980 (45 FR 80084 and codified at 40 CFR 51.300 *et seq.*), pursuant to section 169A of the Act, 42 U.S.C. 7491, deferred the regulation of widespread, regionally homogenous haze from a multitude of sources which impairs visibility over a large area (known as "regional haze") to future rulemaking. The preamble to the 1980 regulations stated in relevant part, "... Future phases will extend the visibility program by addressing more complex problems such as regional haze and urban plumes. We will propose and promulgate future phases when improvement in monitoring techniques provide more data on source-specific levels of visibility impairment, regional scale models become refined, and our scientific knowledge about the relationships between emitted air pollutants and visibility impairment improves." 45 FR 80086.

The State of Vermont is not required by section 110 of the Act, 42 U.S.C. 7410, to address regional haze until such time as EPA decides to promulgate a national regional haze program. Section 110(a)(3) of the Act requires EPA to approve any measure a state submits as a SIP revision if the measure meets the requirements of section 110(a)(2). Section 110(a)(2)(J) requires each SIP to "meet the requirements of * * * Part C (relating to prevention of significant deterioration of air quality and visibility protection) * * *."

In this instance, EPA maintained that regional haze measures are neither consistent nor inconsistent with the requirements of Part C and hence section 110(a)(2)(J), since they are outside the scope of EPA's existing regulations implementing Part C until EPA promulgates a regional haze program. Therefore, EPA proposed no action on the regional haze measures, but solicited comment on its decision. EPA noted, however, that Vermont can as a matter of state law apply and enforce these measures within its boundaries under its revised state regulations even though EPA does not make them federal rules, because section 116 of the Act, 42 U.S.C. 7416, allows states to adopt standards more stringent than the federal requirements.

Response to Comments

Specific comments received by EPA on the December 2, 1986, proposed rulemaking can be found in Docket A–87–05, Items F–N. All comments have been consolidated according to the

issues raised, as follows: (A) No action on regional haze measures; (B) Regulation of regional haze under section 169A of the Act and EPA's visibility protection regulations; (C) Reasonable progress toward achieving the national visibility goal; (D) Ambient sulfate standards; (E) Emissions reduction plan; (F) SIPs for other states; and (G) Technical uncertainty in regional haze regulation. The significant issues raised by the commenters and EPA's responses are summarized below.

A. No Action on Regional Haze Measures

The State of Vermont (Vermont); joint comments from the Conservation Law Foundation, Environmental Defense Fund, Natural Resources Defense Council, Sierra Club, and States of Connecticut, Maine, Massachusetts, New Jersey, and New York (CLF *et al.*); and the Eastern Regional Office of the U.S. Forest Service (USFS) all comment that under sections 110 (a)(2) and (a)(3) of the Act EPA has no choice but to approve or disapprove all elements of the Vermont submittal, rather than take no action on certain provisions as EPA proposed. Comments received from the Utility Air Regulatory Group (UARG), the Mining and Reclamation Council of America (MARC), and the State of Ohio agree with EPA's proposal to take no action on the regional haze measures provided for in Vermont's plan.

Comments supporting approval or disapproval of each element of Vermont's plan contend that requirements for state plans established by the Act at section 169A(b)(2) are sufficient for EPA to decide whether or not the regional haze measures are adequate, pursuant to section 110(a)(2) of the Act. Several of the commenters contend that if the SIP revision meets the requirements of section 169A, EPA must, at a minimum, approve that revision under section 110. These commenters argue that section 169A mandates visibility protection and requires, at subsection 169A(b)(2), state plans which contain emission limits, schedules, and any other measures which are necessary to make reasonable progress toward visibility improvement.

Nor, they argue, can EPA refrain from approving Vermont's measures because it "has no criteria against which to judge the adequacy of regional haze measures such as ambient sulfate standards," 51 FR 43391. The commenters maintain that EPA has a well-established administrative practice of approving SIP revisions which make progress toward statutory objectives even though the measures by themselves may be insufficient to meet the Act's requirements in full, citing as an example, EPA's conditional approval of certain 1982 ozone and carbon monoxide control measures in nonattainment areas in California, 49 FR 30300, 30304 (July 30, 1984).

Noting that section 169A(a)(4) required the promulgation of regulations not later than 24 months after its August 7, 1977 enactment date to assure reasonable progress toward meeting the national visibility goal of preventing any future, and remedying any existing, manmade visibility impairment in mandatory federal Class I areas, and to comply with other requirements of section 169A of the Act, these commenters contend that the absence of EPA regulations today may not form the basis for inaction under section 110. CLF *et al.* stated that EPA should approve or disapprove each measure of Vermont's plan, and if the agency disapproves any measure, EPA should promulgate an alternative provision for Vermont. The USFS comments that actions beyond the scope of what is required and not affecting SIPs of other states should be approved under section 116 of the Act, which assures states their right as a matter of state law to adopt and enforce measures that are more stringent than federal requirements.

Citing some court decisions, CLF *et al.* further comments that even in the absence of implementing regulations EPA is "compelled" to approve Vermont's plan in its entirety by virtue of EPA's "inherent authority" to fashion policy for specific cases, especially where, as here, the action sought is highly dependent on facts specific to the case.

In support of EPA's proposal to take no action on the regional haze measures of Vermont's plan, UARG comments that approving Vermont's regional haze measures under section 116 of the Act would not create any obligations or rights because under section 113, 42 U.S.C. 7413, only "applicable implementation plans" are federally enforceable, an "applicable implementation plan" is one approved by EPA which "implements" the requirements of section 110 of the Act, and the Vermont regional haze measures do not "implement" federal requirements. Therefore, a decision to take no action avoids confusion on the status of Vermont's regional haze measures under federal law. Several commenters noted that absent a federal requirement, Vermont has no right to interstate relief to achieve Vermont's local air quality goals, citing *Connecticut* v. *EPA*, 656 F.2d 902, 909–10 (2d Cir. 1981). These commenters assert that solving complex interstate allocation problems in a workable and equitable manner requires national policymaking, and that until these problems are addressed through federal rulemaking or legislation, the regional haze measures in Vermont's plan cannot be federally enforced.

EPA response: EPA continues to believe that federal rulemaking is necessary before EPA can require and enforce regional haze measures. EPA has not promulgated regulations for a national visibility protection program to address regional haze, and, for the reasons given in the proposal, it cannot adopt the Vermont program as the national regional haze program. Hence, EPA has no basis on which to evaluate Vermont's plan and the state is not required by section 110 to address regional haze impairment at this time. Therefore, EPA believes that it lacks authority to approve Vermont's regional haze measures as part of the Vermont SIP under the Act.

In pointing to EPA's conditional approval of certain ozone and carbon monoxide (CO) measures in California as precedent for approval of Vermont's regional haze measures, CLF *et al.* fails to recognize critical differences in the two situations. In particular, the Act gives California the job of allocating control burdens among its own sources for the purposes of attaining and maintaining NAAQS. Thus, California is the entity which chooses, at least in the first instance, between all of the possible patterns of regulation of NAAQS pollutants within its own boundaries. If California makes a choice, EPA must defer to it, so long as the choice is consistent with timely attainment and maintenance. The potential ozone and CO measures that California submitted not only presented a partial choice among possible control regimes, they also strengthened the SIP on balance and hence EPA approved them. In contrast, the Act does not give Vermont the job of allocating control burdens among sources in other states for any purposes, including that of protecting visibility. Instead, the Act gives EPA that task, pursuant to national rulemaking. Thus, it is beside the point that the Vermont scheme may promote visibility protection, because it is only one choice among many and EPA has not decided which allocation scheme, if any, is the most appropriate.

Another key distinction is that the cited approval of "halfway measures" for California was made against a background of certainty as to both the need to reduce ambient concentrations of carbon monoxide and ozone and the

efficacy of the measures in question in moving toward that objective. Here, in contrast, EPA is confronted with some doubt regarding the need for a sulfate standard to protect visibility in the Lye Brook Wilderness, and great uncertainty regarding the propriety of Vermont's plan in achieving that goal.

In addition, EPA believes it would not be appropriate to disapprove these regional haze measures. As to the ambient sulfate standard and emissions reduction plan, EPA presently has no criteria for judging the adequacy of those measures, and will not until a program addressing regional haze is in place at the federal level. While EPA could defer action on these two measures until such time as the agency decides to promulgate a regional haze program, both the timing and content of such a program are unclear at this time. The control requirement specified in section 169A, best available retrofit technology (BART), is only applicable to a limited number of source categories and to sources of a certain age, which may limit its effectiveness in regulating sources which cause or contribute to regional haze. EPA observed, in its 1979 Report to Congress on visibility and its 1985 Visibility Task Force Report, that using section 169A of the Act to effect improvements in eastern regional visibility would be difficult. Rather, EPA is actively considering a fine particulate secondary national ambient air quality standard (NAAQS) under section 109 of the Act for regional haze control. (See 52 FR 24670, July 1, 1987.)

In view of the uncertainties about the regulatory framework for EPA's regional haze program, EPA believes taking no action will allow Vermont an opportunity to reassess the advisability of its ambient sulfate standards and emissions reduction plan as potential SIP measures when EPA completes decisionmaking regarding a regional haze program. Also, while EPA has the authority to disapprove these two measures because they are not approvable at the present time, taking no action will avoid confusion about the status of those provisions under federal law, avoid the appearance of a premature judgment as to their ultimate approvability, and prevent confusion regarding their present enforceability as a matter of state law.

In asserting that EPA has a nondiscretionary duty under section 110 of the Act to approve or disapprove the visibility submittal, Vermont cited *Kennecott Copper Corp.* v. *Costle*, 572 F.2d 1349, 1354–55 (9th Cir. 1978), and *Citizens for a Better Environment* v. *Costle*, 515 F. Supp. 264, 271 (N.D. Ill. 1981). However, the central thrust of those cases is that EPA must *dispose of* prospective SIP revisions either by accepting or rejecting them as additions to the SIP. In this case, EPA today approves those portions of the Vermont SIP submittal which are required under EPA's current visibility rules in 40 CFR Part 51, Subpart P. By taking "no action" on the other SIP measures in question EPA has disposed of them as well, in as much as the deliberate effect of the action is to keep the measures out of the Federally enforceable SIP. "No action" constitutes a rejection of the measures. Thus, today's notice constitutes final action on the entire Vermont submission under section 110(a)(3) for purposes of judicial review in the court of appeals under section 307(b) of the Act, 42 U.S.C. 7607(b).

The term "approval" in sections 110(a)(2) and (3) of the Act plainly refers only to the option of acceptance. In contrast, the term "disapproval" in those sections is ambiguous. The common sense of the term is rejection on the grounds of inconsistency with the requirements of section 110(a). But, as the Vermont measures illustrate, a rejection can be appropriate for another reason, namely, that the measures in question are outside the scope of any of the requirements in section 110(a) and hence are neither consistent nor inconsistent with them. EPA has decided to resolve this ambiguity by labeling determinations of inconsistency as "disapprovals" and treating the other determinations relating to scope as "no actions." This choice has no practical or legal significance beyond the fact that it helps to clarify the basis of EPA's actions. For instance, whatever label EPA places on its actions here, that action is still a refusal to make the regional haze measures part of the SIP.

EPA is declining to approve under section 116 of the Act Vermont's regional haze measures to the extent that they do not affect the SIPs of other states. There is no indication that Vermont wanted EPA to selectively approve into the SIP only the locally effective aspects of the regional haze measures. To the contrary, Vermont appears to have designed these measures to solely address an interstate problem. And, in fact, there is no significant practical value in approving the measures and thereby rendering them Federally enforceable. In these circumstances, it would not be appropriate for EPA to approve the measures to the extent that they have merely local effect.

As for CLF *et al.'s* argument that legal precedents compel EPA to act to approve Vermont's entire plan by virtue of its "inherent authority to fashion policy for specific cases," EPA believes that the cases cited by CLF *et al.* in fact stand for quite a different proposition, that federal agencies have broad *discretion* to fashion general or case-specific responses to administrative problems. Here, all concerned agree that the regional haze problem the Vermont plan seeks to address is not unique to the Lye Brook Wilderness.

In addition, Vermont's proposed solution—a multistate emissions reduction plan—has obvious and significant effects far beyond Vermont's borders. Thus, as stated elsewhere, EPA believes that SIP action addressing the impairment in Vermont's Class I area must await promulgation and implementation of EPA regulations which take due account of the broad scope of both the regional haze problem and the range of potential solutions.

The Environmental Defense Fund (EDF) submitted separate supplemental comments which in part assert that approval or disapproval of provisions of Vermont's plan is mandated under the terms of a settlement agreement approved by court order on April 20, 1984. In December, 1982, environmental groups, including EDF and the National Parks and Conservation Association, filed a citizen's suit in the United States District Court for the Northern District of California alleging that EPA had failed to perform a nondiscretionary duty under section 110(c) of the Act to promulgate visibility plans for the states that had failed to submit SIPs to EPA (*EDF* v. *Thomas*, No. C82-6850 RPA). EPA and the plaintiffs negotiated a settlement agreement which was approved by court order on April 20, 1984, and amended on September 9, 1986, that requires EPA publication of the final rulemaking on Vermont's plan within seven months of the date of publication of EPA's proposed rulemaking on the plan. For more information on details of the settlement provisions, see EPA's announcement of the agreement at 49 FR 20647 (May 16, 1984).

However, that agreement requires EPA action on state measures intending to satisfy the requirements of EPA's existing visibility requirements, 40 CFR Part 51, Subpart P, whereas, as EPA discussed in its proposed rulemaking, the measures in question address regional haze and therefore are beyond the scope of Subpart P and the settlement agreement. Further, today's notice does constitute dispositive final action on the entire Vermont plan for purposes of the settlement agreement.

B. Regulation of Regional Haze Under Section 169A of the Act and EPA's Visibility Protection Regulations

1. Section 169A of the Act

CLF *et al.* and Vermont comment that section 169A of the Act by itself mandates state visibility protection plans which must contain emission limits, schedules, and any other measures which are necessary to make reasonable progress toward visibility improvement. Section 169A(b)(2) of the Act. These commenters acknowledge that section 169A of the Act requires EPA to issue regulations, under section 169A (a)(4) and (b), but assert that "EPA's regulations are not an independent source of visibility requirements." Rather, these commenters assert that section 169A(b)(2) establishes requirements for state plans and EPA's regulatory program.

These commenters, along with USFS, observe that section 169A contains no limitation of visibility programs to only "plume blight," nor any provision for a phased program approach. They further argue that section 169A makes clear that Congress intended reasonable progress to be made toward remedying any existing manmade visibility impairment in Class I areas. EDF commented that nothing in section 169A of the Act suggests that there is only one solution to any visibility impairment problem, or that the state plan must identify the optimal solution.

The comments of UARG, MARC, and the State of Ohio support EPA's interpretation that section 169A of the Act directs the states to abate visibility in accordance with regulations promulgated by the Administrator, under section 169A(a)(4), rather than directly imposing any obligations on the states. UARG and MARC assert that Vermont seeks to preempt EPA's efforts to decide the timing and validity of regional haze regulation, and comment that such preemption would short-circuit EPA's ongoing development of the scientific and technical background necessary for the development of a national policy on regional haze. MARC further comments that regional haze measures should be adopted only as a result of full scale notice and rulemaking that addresses regional visibility impairment from a national perspective.

EPA Response: EPA still believes that section 169A is not self-executing, but rather must be implemented by EPA regulations. Therefore, EPA is affirming its interpretation of section 169A as discussed in the proposed rulemaking.

2. Constraints of EPA's Existing Visibility Regulations

Several commenters question whether or not EPA's existing visibility requirements in all cases limit application to only plume type impairment. CLF *et al.*, USFS, and Vermont variously commented that EPA's visibility regulations at 40 CFR Part 51, Subpart P, are not exclusive to only plume-type impairment in: (a) requiring that every SIP must include a long-term (10–15 years) strategy for making reasonable progress toward "preventing any future, and remedying any existing, impairment of visibility in mandatory Class I federal areas," 40 CFR 51.300(a), 51.306(a)(1); (b) requiring that SIPs include "measures * * * as may be necessary to make reasonable progress toward the national goal," 40 CFR 51.302(c)(2); (c) defining "visibility impairment" and "significant impairment" at 40 CFR 51.301; (d) requiring that States coordinate with federal land managers, 40 CFR 51.302(b); or (e) requiring visibility monitoring, 40 CFR 51.305, for which EPA's own proposed national monitoring network calls for a single site to characterize visibility in all six New England Class I areas. In this regard, CLF *et al.* contends that the referenced regulatory language makes clear that EPA did not restrict the 1980 visibility rules to plume-type impairment, and thus EPA cannot rely on preamble language to demonstrate that EPA intended to defer measures addressing regional haze.

To support its position that EPA's existing regulatory program is not limited to impairment caused by plume blight, Vermont also notes preamble language in EPA's notice of proposed rulemaking for the existing regulations, 45 FR 34762 (May 22, 1980), which states, "Because of the limited applicability of BART the development of long-term strategies will be central to making reasonable progress * * *" and, in spite of the limits imposed by the phased approach, "* * * the long-term strategy can, however, begin to address the more complex problems such as regional haze."

Other commenters, however, maintain that the regulation of regional haze is specifically deferred. UARG refers to the preamble to EPA's final rulemaking on its visibility protection program for Class I areas, 45 FR 80085–80086, 80088 (December 2, 1980), and, citing several judicial opinions, observes that to ascertain EPA's intent to control only plume blight, the preamble is a valuable and instructive guide. UARG highlights the following language in the 1980 proposed rulemaking on EPA's regulations which explains that regional haze measures would not be required: "Even though we are calling these proposed regulations 'Phase I of the visibility protection program,' the basic structure of the regulations * * * will remain constant for all phases * * *." 45 FR 34764. Additionally, UARG points to the statement that the long-term strategy would "be necessarily somewhat limited by the phased approach to the visibility program," although such strategies "can * * * begin to address the more complex problems such as regional haze," but then only through, for example, pre-existing programs of emission controls. 45 FR 34777. UARG further cites an advance notice which EPA published prior to promulgation of the visibility protection program, as describing EPA's concept of a "Phased Program," whereby the "regulations and guidelines, while encompassing the full range of Clean Air Act requirements, should to the extent possible permit States to focus initially on the most clearly defined cases of existing impairment and on strategies to prevent future impairment, and also allow for evaluation of broader control strategies as scientific understanding of urban plumes, regional haze, * * * improves." 44 FR 69119 (1979). Also, for clarification on EPA's intention, UARG notes that EPA's listing of 32 States deficient for failing to include adequate long-term strategies in their SIPs made clear that its rules "only address a type of visibility impairment which results from a single source or small group of sources known as reasonably attributable impairment or plume blight," 51 FR 3047 (January 23, 1986), and that SIPs are required to "include a long-term strategy for each * * * Class I area that may be affected by sources within the State." 51 FR 3048.

EPA Response: EPA agrees with UARG that preamble language is an appropriate source for ascertaining the intent of EPA's visibility regulations, and that the regulation of regional haze was specifically deferred. EPA outlined its visibility protection program in the preamble to its 1980 final rulemaking, under the heading "The Program: A Phased Approach to the Problem," and stated, "Recognizing the need to initiate protection as soon as possible, while also realizing that certain scientific and technical limitations do exist, we are today promulgating, essentially as proposed, a phased approach to visibility protection. * * * Phase I of this program will * * * [r]equire control of impairment that can be traced to a single existing stationary facility or

small group of existing facilities. * * * Information derived from modeling and monitoring can, in some cases, aid the states in development and implementation of the visibility program. In the first phase, the states are required to consider available modeling and monitoring information. The use of such information will be at the discretion of the state, and the states are not required to establish monitoring networks or perform modeling analyses. Future phases will extend the visibility program by addressing more complex problems such as regional haze and urban plumes." 45 FR 80085–80086.

Explaining "The Program—In Detail," EPA observed in its discussion of BART requirements, "* * * We believe that while pollutants may cause or contribute to visibility impairment, the pollutants of primary concern under this Phase I program are particulate matter and NO_x. Emissions of SO_2 primarily contribute to regional haze which is beyond the scope of this Phase I program. Therefore, we expect very few, if any, BART analyses for SO_2 in this phase of the program. It should, however, be noted that we expect that the Phase II program will result in control of pollutants associated with regional haze and urban plumes which affect mandatory Class I Federal areas. We therefore expect that sources would be analyzed, at that time, for all pollutants causing or contributing to these types of visibility impairment." 45 FR 80086–80087. It is just such regional control of SO_2 emissions that EPA understands is addressed by Vermont's regional haze measures.

In the preamble to that same rulemaking, EPA described the regulatory impact of its Phase I program, stating, "The immediate principal benefit of these regulations will be (1) the reduction or elimination of impacts reasonably attributable to specific sources, and (2) further definition of procedures for the review of new sources. * * * The phased approach of these regulations will limit the amount of resources the States will have to expend on revising their SIPs." 45 FR 80088. While EPA recognizes that some states may wish to examine strategies for remedying impairments which are regional in nature, as, for example, the State of Washington has done to address the cumulative effect of prescription burning within that state, EPA's current regulations do not require states to address such complex problems in their SIPs. The regional haze provisions of Vermont's plan are national in scope; they have interstate implications that cannot be addressed under EPA's existing visibility protection regulations.

3. Interstate Effect

UARG cited EPA's denial of the State of Maine's petition under the interstate pollution abatement provisions of section 126 of the Act, 42 U.S.C. 7426, as a precedent for an EPA affirmation that its existing visibility program defers the regulation of regional haze. UARG pointed to the statement in EPA's proposed denial of the petition that "* * * the visibility impairment of which Maine complains [i.e., regional haze] simply is not the subject of 'measures required to be included in an applicable implementation plan' " for visibility protection within the meaning of section 110(a)(2)(E) of the Act, 42 U.S.C. 7401(a)(2)(E). 49 FR 34866 (Sept. 4, 1984).

EPA response: EPA agrees that its reasoning remains consistent, and that regional haze measures are not required to be in an applicable SIP at this time.

C. Reasonable Progress Toward Achieving the National Visibility Goal

Vermont notes EPA's acknowledgment in 1980 that source specific plume-type impairment is nonexistent or nearly nonexistent in any Class I area, and asserts that EPA's failure to address regional haze constitutes a *de facto* EPA definition that "reasonable progress" means "no progress." Several commenters expressed concern that assuring reasonable progress toward the national visibility goal of remedying any existing, and preventing any future, impairment is a nondiscretionary requirement of section 169A of the Act, and that nowhere in the Act is reasonable progress limited to the problem of plume blight. Vermont commented that since EPA has required the states to achieve reasonable progress but without ever defining it, the states carry the burden of defining reasonable progress on an area-by-area basis and implementing programs to achieve it within their jurisdictions. CLF *et al.* contends that EPA has failed to demonstrate that achieving reasonable progress as required by section 169A, by tracing and treating the sources of visibility impairment in the Lye Brook Wilderness, is impossible.

However, MARC contends that EPA's implementation of its Phase I regulations, together with its continuing research efforts regarding future phases, clearly constitutes reasonable progress as contemplated by Congress.

EPA response: Although EPA recognized, when promulgating the 1980 visibility regulations pursuant to section 169A of the Act, that they would have limited affect on existing sources (45 FR 80088, col. 3), it does not agree that the 1980 regulations represent "no progress" toward the national goal. As EPA stated in the Report to Congress on Visibility (page 10), the highest priority for a visibility protection program is the evaluation of the impacts of new sources on visibility in Class I areas. In addition to the BART requirements, the existing regulations establish procedures to ensure the review of new source impacts near all Class I areas, and allow states to evaluate strategies for preventing future and remedying existing impairment from in-state sources not subject to BART, such as from forestry and agricultural practices, construction activities, and small sources which may not meet the source size requirements of BART. Although the regulatory impact was expected to be greatest in the western United States, the regulations apply in all 36 states with Class I areas, and do represent reasonable progress on a national scale. Because the types of sources which impair, or may impair, visibility due to plume blight vary greatly across the country, EPA believes it appropriate that states carry the responsibility for defining reasonable progress, and implementing programs to achieve it, within their jurisdictions.

In any event, these complaints about the content of the 1980 regulations are immaterial. The only issue in the rulemaking here is whether the Vermont regional haze measures are required by the Act. As discussed above, they are not, because section 169A of the Act is not self-executing and EPA did not require regional haze measures in its 1980 regulations.

D. Ambient Sulfate Standards

Vermont comments that the seasonal ambient sulfate standard which its submittal provides for is more appropriate for the Lye Brook Wilderness than a national standard promulgated by EPA would be. Vermont offers, as an example, that a fine particulate matter standard reasonable to make progress in the Lye Brook Wilderness might be difficult to attain in West Virginia, while conversely, one reasonable for West Virginia would make little or no progress in Vermont. Nonetheless, Vermont asserts that as long as EPA develops a fine particulate matter standard to address regional haze, which is set at a level sufficient to achieve some measure of progress in eastern Class I areas, approval of Vermont's seasonal standard would not interfere with an EPA one.

EPA Response: EPA, in both its 1979 Report to Congress, EPA-450/5-79-008, and 1985 Visibility Task Force Report, noted that regional standards may well be more appropriate than a national standard to protect visibility. This is especially true in the instance of differences in relative humidity and naturally occurring particulate matter in eastern versus western states. EPA is currently taking comment on its plans to develop a welfare-based national ambient air quality standard (NAAQS) to protect visibility. (See EPA's advance notice of proposed rulemaking on a fine particulate matter standard at 52 FR 24670, July 1, 1987.) However, while EPA's effort to solicit comments on the feasibility and desirability of developing such a standard is underway, EPA cannot evaluate as a part of today's action whether Vermont's standard would be consistent with a national standard. Therefore, EPA is affirming its proposed decision to take no action on Vermont's ambient sulfate standards.

Vermont suggests that its programs for protecting against regional haze, of which the seasonal standard is a part, would be consistent with any regime based on a national fine particle NAAQS which EPA might adopt, so long as that regime were progressive. It seems likely, however, that the two regimes ultimately would differ significantly in their demands on specific states and sources. Thus, these demands could conflict, in many instances, even if the programs and the demands were both progressive. The purpose of the requirement for EPA rulemaking in section 169A is not only to produce progress in protecting visibility, but also to establish a rational and unitary system of control requirements concerning many states and sources. Conflict, confusion, and inefficiency would probably result from the course of action Vermont suggests.

E. Emissions Reduction Plan

CLF *et al.* contests EPA's position in the proposed rulemaking that Vermont's emissions reduction plan lacks the precision and scope necessary to form the basis of a regional haze impairment program under section 169A of the Act. Instead, this commenter finds that Vermont has discussed its assumptions made in the plan, presented its criteria for assessing impairment, modeling, and selecting abatement techniques, and has explained the policy reasons for rejecting an approach whereby control burdens would be apportioned according to the degree of contribution. EDF comments that EPA's inaction is without any redeeming value, and while "Vermont's program would dictate a single solution (average statewide emission rates by certain deadlines) to a problem that has a vast array of potentially acceptable solutions," nothing in the statute suggests that the state's proposal must identify the optimal solution. Vermont contends that section 169A of the Act neither requires the guidelines which EPA must provide to the states to be "extensive" nor sufficiently detailed to "allocate the necessary control burdens among the relevant sources." 51 FR 43392.

However, MARC comments that giving Vermont's plan interstate effect would be bad public policy, and that regional haze regulations should only be adopted as a result of full scale notice and rulemaking to obtain a national perspective. MARC holds that Vermont's plan fails to adequately address the technical and policy issues which arise from requiring substantial emission reductions in large areas of the country. MARC suggests that issues like the allocation of pollution abatement burdens, associated costs, and the resolution of significant interstate policy disputes are not in the purview of an individual state.

EPA Response: EPA is affirming its proposal to take no action on Vermont's emissions reduction plan, because section 169A(b) of the Act clearly requires the agency to promulgate regulations which provide guidelines to the states on visibility monitoring methods, modeling methods, and methods for making reasonable progress toward the national visibility goal. In 1980, EPA issued guidance and regulations for the current Phase I visibility protection program. But, EPA does not believe that these existing guidance documents or regulations are, or were intended to be, sufficiently detailed to provide the states with adequate guidelines for the regulation of regional haze. EPA believes that alternative potential solutions must be considered by the agency and be subject to rulemaking at the national level before it can approve or reject such a far reaching regulatory program as that called for in Vermont's plan.

F. SIPs for Other States

Although not part of Vermont's visibility protection plan, the State asked EPA to disapprove immediately the SIPs of eight states—Ohio, Pennsylvania, West Virginia, Kentucky, Tennessee, Illinois, Indiana, and Michigan—which Vermont identified in its plan as having emissions that cause or contribute to impairment of visibility in the Lye Brook Wilderness. Further, Vermont asked EPA to add four states—Ohio, Pennsylvania, Illinois, and Indiana—to the list of those states EPA has required to develop visibility protection plans. EPA responded in its proposal that it would make no SIP calls to address regional haze impairment until such time as it completes its development of a national regional haze visibility protection program. Vermont asserts that in the preamble to the 1980 regulations, EPA did not distinguish between plume blight and regional haze in discussing its decision that 36 states would be listed in its regulations as being required to develop visibility protection SIPs. In explaining why only the 36 states containing Class I areas were listed, EPA stated, "We did not identify, nor did any commenters identify any State that did not contain a mandatory Class I Federal area, but which could contain a source the emissions from which could reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class I Federal area." 45 FR 80086. Vermont contends that EPA must add the four identified states to its list because of Vermont's demonstration that emissions from these four states may reasonably be anticipated to cause or contribute to visibility impairment in the Lye Brook Wilderness. Vermont comments that highly sophisticated tools are not necessary to make SIP calls in states whose emissions contribute to impairment. Vermont maintains that it is not necessary to know the exact contribution to impairment at each hour from each location in each Class I area from each source in a given state to be able to determine that the emissions from that state may reasonably be anticipated to contribute to any impairment in any Class I area.

UARG comments that EPA's regulations do not authorize it to apply the visibility rules to states other than those 36 listed states which contain Class I areas. UARG notes the supplemental statement in EPA's 1980 rulemaking in which the agency specifically stated that, "the Administrator has determined it would be appropriate to propose and solicit comment before promulgating any change in the States affected by these rules." 45 FR 80094.

EPA Response: EPA is affirming its proposal by denying, at the present time, Vermont's request to add four states to the list of those now required to develop visibility program requirements and disapprove the SIPs of eight states which Vermont believes are contributing to the impairment in the Lye Brook Wilderness. EPA promulgated the list of 36 states which were required to

develop Phase I visibility SIPs in the context of its decision to require protection against only plume blight. To the extent the list may exclude states that are contributing to regional haze, the original decision to do so was the logical outgrowth of the narrow focus of the 1980 regulations. Hence, it would not be appropriate to change this list of states without notice and comment rulemaking at the national level. In addition, EPA does not believe it has the authority to make SIP calls for regional haze in the eight identified states as explained in the notice of proposed rulemaking.

G. Technical Uncertainty in the Regulation of Regional Haze

Several commenters expressed sentiment that the tools for developing a visibility program to address regional haze are now available, and accessible to EPA, if not already in EPA's hands. CLF *et al.* contends that the numerical imprecision inherent in long-range air transport modeling is not significant in view of the nearly unanimous scientific agreement as to the source of high ambient sulfate concentrations in the Northeastern states. CLF *et al.* cites the National Commission on Air Quality's report, *To Breathe Clean Air* (March, 1981), which states, "* * * Model estimates and reliable field observations are expected to agree within a factor of two on an annual basis."

Vermont maintains its analysis demonstrates the impairment in the Lye Brook Wilderness is not an incomprehensibly complex mixture of pollutants, but is instead clearly and predominantly a function of a single pollutant, sulfates. Vermont cites several court decisions in commenting that EPA may still proceed with a regulatory program even when on the "frontiers of scientific knowledge."

Also citing judicial opinions to support its position, CLF *et al.* comments that the Act does not allow EPA to delay action until the field of transport modeling has reached ultimate perfection. Rather, CLF *et al.* asserts, Congress commanded EPA to do the best it can to effectuate the mandates of the statutes using available information and tools. According to CLF *et al.*, EPA bears an "especially heavy burden of justification" where, as here, it maintains that scientific uncertainties make timely regulatory action completely impossible.

The North Atlantic Regional Office of the National Park Service (NPS), Vermont, and EDF comment that progress in advancing the modeling of regional haze impacts has occurred since EPA promulgated its visibility regulations in 1980, to a stage where techniques are currently available and accessible to EPA that are reasonably accurate in identifying major source types and regions responsible for visibility impairment. Vermont comments that it relied on several of the widely published state-of-the-art methods listed in an attachment to the comments submitted by NPS, entitled "Development and Application of Air Quality and Visibility Modeling Tools by the National Park Service" (Oct. 6, 1986). NPS believes that Vermont's analysis is technically sound and results in findings that are consistent with past studies of NPS and EPA's Interagency Visibility Task Force.

UARG comments that Vermont's regional haze measures would, in effect, cut short the EPA policy-making process which, with the work of EPA's Interagency Visibility Task Force, is now underway. UARG notes the task force finding that "there has not been a comprehensive assessment of regional haze in the East. * * *" 1985 Task Force Report, Appendix E at 8. Additionally, UARG cited several petitions brought pursuant to section 126 of the Act concerning interstate air pollution, actions concerning international pollution provisions in section 115 of the Act, 42 U.S.C. 7415, and court decisions pertaining to long range transport and the acid deposition phenomenon in which EPA has repeatedly maintained that air quality simulation models currently available are not adequate for definitive regulatory action, and new models that have been proposed or are being developed have not been evaluated sufficiently.

UARG also comments that EPA's statement, that Vermont has demonstrated its visibility impairment is caused by regional haze and is attributable predominantly to out-of-state sulfur emissions, is not consistent with current scientific evidence. UARG suggests that EPA should make clear that there is no quantitative relationship between the emissions targeted by Vermont for controls and visibility impairment experienced in Vermont.

EPA Response: The issues raised by the commenters here more directly address the technical justification for EPA's deferral of implementing regulations, a matter which is not presented for decision in today's notice. As explained earlier in section B.1. above, under the heading "Section 169A of the Act," EPA believes the statutory requirements of section 169A are only implemented through promulgation of federal regulations. Thus, even if the agency had criteria to judge the adequacy of Vermont's regional haze measures, it could not do so today because of the lack of regional haze regulations.

Although EPA recognizes that modeling techniques have improved since its visibility protection regulations were promulgated, considerable additional work remains to be done. Moreover, there is no regulatory framework for a regional haze program, so EPA cannot respond to comments such as those made by Vermont, CLF *et al.*, and NPS about the range of techniques and models which may be appropriate for use in development of a program addressing regional haze.

The Visibility Task Force's 1985 report listed research needs to develop a regional haze program that included the characterization of current regional visibility conditions and pollutant/visibility relationships in representative regions, the development of improved monitoring techniques, and studies on the value of visibility. Developmental work currently underway to meet some of the needs for formulating a national program to address regional haze includes: Installation of an eastern regional interim visibility monitoring network; specifications for visibility monitoring methods; research to develop long range transport models for assessment of acid rain and visibility impacts; and publication of an advance notice of proposed rulemaking on a fine particulate matter standard in response to recommendations made in 1985 by the Visibility Task Force (52 FR 24670, July 1, 1987). Because of the activities which remain to be done before EPA can develop a sound regional haze program, EPA cannot yet commit to a schedule for promulgation of the regional haze program.

In response to UARG's comments concerning Vermont's demonstration, that there is no quantitative relationship between out of state sulfur emissions and regional haze, EPA observes that UARG's conclusion is not supported by UARG's own technical comments. Both Vermont and UARG provided scientific analyses showing some identifiable relationships between out of state sulfur and visibility impairment in Vermont. UARG's technical comments provide a rough quantification of the possible improvement in visibility based on sulfur dioxide emission controls in the Midwest. These estimates were considerably lower than those provided by Vermont, and differed in the relative and total contributions of various states' emissions to the problem. However, there is no need to resolve these differences given EPA's action today.

Sensitive Areas

Vermont's visibility protection plan designates all areas in the state which have an elevation greater than 2,500 feet mean sea level as "sensitive areas." Vermont's regulations and plan would apply the visibility protection requirements to all "sensitive areas" in the state. EPA proposed to take no action on Vermont's broader application to "sensitive areas," because EPA lacks the authority to regulate such areas that are not mandatory Class I federal areas. No comments were received which were specific to EPA's proposal regarding "sensitive areas." Therefore, EPA is affirming its decision to take no action on this portion of Vermont's plan.

Final Rule

EPA is approving the following provisions of Vermont's visibility protection plan: (1) The new source review procedures, excluding the sulfate standards; (2) the showing that BART is unnecessary for existing Vermont stationary sources; (3) the long-term strategy, excluding the 48-state emissions reduction plan; and (4) the monitoring program. EPA is taking no action on all provisions concerning ambient sulfate standards, on that portion of Vermont's long-term strategy outlining a phased emissions reduction plan to achieve a uniform statewide average SO_2 emission rate and added NO_x controls among 48 states, and on broader applicability of the plan to additional "sensitive areas." Although it was not part of Vermont's visibility protection plan, EPA is also denying today Vermont's accompanying request to disapprove the SIPs of eight states, and denying its request to add four states to the list of states which EPA has required to develop visibility protection plans.

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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 1987. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Sulfur dioxide.

Note: Incorporation by reference of the State Implementation Plan for the State of Vermont was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 2, 1987.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Subpart UU of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart UU—Vermont

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2370, is amended by adding paragraph (c)(19) as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) * * *

(19) A plan to protect visibility in the Lye Brook Wilderness, a mandatory Class I federal area, from impairment caused by plume blight and to monitor visibility, in fulfillment of the requirements of 40 CFR Part 51, Subpart P. Submitted on April 15, 1986, the plan approves, only as they apply to mandatory Class I federal areas, revisions to Vermont Regulations 5–101 (3), (14), (21), (59), and (76); 5–501(4); and 5–502 (4)(d) and (4)(e).

(i) *Incorporation by Reference.* (A) Amendments to Environmental Protection Regulations Chapter 5, Air Pollution Control, Subchapter I. Definitions, 5–101 at subsections (3), (14), (21), (59), and (76), filed in its adopted form on September 2, 1986.

(B) Amendments to Environmental Protection Regulations Chapter 5, Air Pollution Control, Subchapter V. Review of New Air Contaminant Sources, 5–501 at subsection (4) requiring responsiveness to comments and any analyses submitted by any Federal Land Manager, filed in its adopted form on September 2, 1986.

(C) Amendments to Environmental Protection Regulations Chapter 5, Air Pollution Control, Subchapter V. Review of New Air Contaminant Sources, 5–502 at subsection (4)(d) requiring a demonstration of no adverse impact on visibility in any Class I federal area; and at subsection (4)(e) which reletters the former subsection (4)(d), filed in its adopted form on September 2, 1986.

(ii) *Additional material.* (A) Narrative submittal consisting of two volumes entitled, "Implementation Plan for the Protection of Visibility in the State of Vermont" and "Appendices" describing procedures, notifications, and technical evaluations to fulfill the visibility protection requirements of 40 CFR Part 51, Subpart P.

3. Table 52.2381 of § 52.2381 is amended by adding the following entries:

§ 52.2381 EPA-Approved Vermont State Regulations.

* * * * *

Subchapter I Definitions

TABLE 52.2381—EPA-APPROVED REGULATIONS

State citation, title and subject	Date adopted by State	Date approved by EPA	Federal Register Citation	Section 52.2370	Comments and unapproved sections
Section 5-101 Definitions.....					
• •	•	•	•	•	•
	9/17/86	7/17/87	[FR citation from published date].	(c)(19)	Related to visibility in Class I areas. 5-101(3), (14), (21), (59), and (76) approved.
• •	•	•	•	•	•
Subchapter V—Review of New Air Contaminant Sources					
Section 5-501 Review of construction or modification of air contaminant sources.					
• •	•	•	•	•	•
	9/17/86	7/17/87	[FR citation from published date].	(c)(19)	Related to visibility in Class I areas. 5-501(4) approved.
• •	•	•	•	•	•
Section 5-502 Major stationary sources and major modifications.					
• •	•	•	•	•	•
	9/17/86	7/17/87	[FR citation from published date].	(c)(19)	Related to visibility in Class I areas. 5-502 (4)(d) and (4)(e) approved.
• •	•	•	•	•	•

[FR Doc. 87-15671 Filed 7-16-87; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42002F; FRL-3233-8]

Fluoroalkenes; Final Test Rule Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final test rule on fluoroalkenes published in the **Federal Register** of June 8, 1987. This action is necessary to insert an inadvertently omitted page in the preamble.

FOR FURTHER INFORMATION CONTACT: By mail: John A. Richards, Chief, Federal Register Staff (TS-788B), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. G-009A, 401 M St. SW., (202-382-3415).

SUPPLEMENTARY INFORMATION: EPA issued a final rule, FR Doc. 87-12828, published in the **Federal Register** of June 8, 1987 (52 FR 21516), to require certain health effects testing for vinyl fluoride (VF; CAS No. 75-02-5), vinylidene fluoride (VDF; CAS No. 75-38-7), hexafluoropropene (HFP; CAS No. 116-15-4), and tetrafluoroethene (TFE; CAS No. 116-14-3) (collectively as fluoroalkenes), in accordance with section 4(a)(1) of the Toxic Substances Control Act.

In unit V.A., a page of the preamble was inadvertently omitted and is corrected by inserting the material in the following text between the words "letters" and "II", appearing at page 21525, third column, fourth line.

* * * * *

* * * **Federal Register** notice will be issued after the review, either affirming or proposing to rescind the Agency's oncogenicity requirement for TFE.

To assess the potential for the fluoroalkenes to cause gene mutations, the Agency had proposed mutagenicity testing in the *Salmonella* reverse mutation assay for TFE. EPA now has adequate data on TFE in this test as discussed in Unit II.B., and is, therefore, withdrawing its proposed requirement for the *Salmonella* assay for TFE. EPA is, however, requiring that mutagenicity testing for cells in culture be conducted for both TFE and HFP on subclones of CHO cells as specified in § 798.5300 and as modified in § 799.1700(c)(1)(i)(B)(*2*). However, as discussed in Unit II.B., the requirement for testing TFE in the cells in culture assay does not extend to the "without activation" portion of that test. All other requirements apply. If the cells in culture test is positive for TFE or HFP, then a *Drosophila* sex-linked recessive lethal (SLRL) assay shall be conducted as specified in § 798.5275 and as modified in § 799.1700(c)(1)(i)(C)(*2*) for that chemical. If the cells in the culture test is negative then no further gene mutation testing will be required for that chemical. Based on positive results from the testing of VDF in the *Salmonella* assay, as discussed in the proposed rule, and the positive cells in culture assay for VF, as discussed in Unit * * *

* * * * *

List of Subjects in 40 CFR Part 799

Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: July 7, 1987.

J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 87-16186 Filed 7-16-87; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2598; AA-230-07-6310-02]

43 CFR Part 5440

Conduct of Sales; Qualification of Bidders

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the provision of the existing regulations in 43 CFR Part 5440, Conduct of Sales, dealing with qualifications of bidders. The Department of the Interior has determined that it is necessary to amend the existing regulations concerning qualifications of bidders by defining more precisely when bidders are not qualified, and by making these amendments apply retroactively to all cases still pending before the Department.

EFFECTIVE DATE: August 17, 1987.

ADDRESS: Any suggestions or inquiries should be sent to: Director (140), Department of the Interior, Bureau of Land Management, Room 5555 MIB, 1800 'C' Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gary Ryan (202) 653-8864.

SUPPLEMENTARY INFORMATION: A proposed rulemaking to amend provisions of the existing regulations in 43 CFR Part 5400, Sale of Forest Products; General, and Part 5440, Conduct of Sales, was published in the **Federal Register** on July 18, 1985 (50 FR 29324). The proposed rulemaking provided the public a comment period of 60 days. A 30 day extension was granted on September 26, 1985 (50 FR 39024). The Department of the Interior received 2 comments from the public. The letters were from a timber association and a law firm. Because of the length of time that has passed since publication of the proposed rulemaking, the Department has decided to repropose the rulemaking, with a further opportunity