

noses, ears and fingers. This is being issued as an interim final rule in order to comply with the statutory mandate. Public comments, however, are invited and will be considered in connection with possible revisions to this rule.

DATES: This rule is effective May 20, 1999. Written comments will be accepted until October 19, 1999.

ADDRESSES: Forward comments to the Office of TRICARE Management Activity, 16401 East Centretch Parkway, Aurora, CO, 80011-9043.

FOR FURTHER INFORMATION CONTACT: Margaret Brown, Office of Medical Benefits and Reimbursement Systems, telephone (303) 676-3581.

SUPPLEMENTARY INFORMATION: This interim final rule implements section 702 of the national Defense authorization Act for fiscal Year 1998 (Pub. L. 105-85) to provide purchase of prosthetic devices, as determined by the Secretary of Defense, to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease. The current policy is restrictive as it limits purchase of prosthetic devices to artificial limbs, eyes, and voice prostheses. This interim final rule expands provisions for prosthetic devices to include ears, noses and fingers.

Regulatory Procedure

Executive order 12866 requires certain regulatory assessments for any significant regulatory action, defined as one which would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This Interim Final Rule is not a significant regulatory action under E.O. 12866, nor would it have a significant impact on small entities. The changes set forth in the interim final rule are minor revisions to the existing regulation.

The interim final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3511). This rule is being issued as an interim final rule, with comment period, as an exception to our standard practice of soliciting public comments prior to issuance. The Assistant Secretary of Defense (Health Affairs) has determined that following the standard practice in this case would be impracticable, unnecessary, and

contrary to the public interest. This determination is based on several factors. First, this change directly implements a statutory amendment enacted by Congress expressively for this purpose. (See House Conference Report 105-340, p. 300). Second, this rule implements the statutory policy without embellishment. All public comments are invited.

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Individuals with disabilities, Military personnel.

PART 199—[AMENDED]

Accordingly, 32 CFR 199 is amended as follows:

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; and 10 U.S.C. Chapter 55.

2. Section 199.4 is amended by revising paragraph (d)(3)(vii) and (g)(48) and removing paragraph (d)(3)(vii) NOTE.

§ 199.4 Basic program benefits

* * * * *

(d) * * *

(3) * * *

(vii) *Prosthetic devices.* The purchase of prosthetic devices is limited to those determined by the Director, OCHAMPUS to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease.

* * * * *

(g) * * *

(48) *Prosthetic devices.* Prostheses other than those determined by the Director, OCHAMPUS to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease. All dental prostheses are excluded, except for those specifically required in connection with otherwise covered orthodontia directly related to the surgical correction of a cleft palate anomaly.

* * * * *

Dated: August 12, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99-21348 Filed 8-19-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA-49-1-7411; FRL-6422-3]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Interim Final Determination That Louisiana Continues To Correct the Deficiencies of Its Enhanced Inspection and Maintenance (I/M) SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Previously EPA published a proposed rulemaking (December 30, 1998, 63 FR 71807) to conditionally approve the State of Louisiana's State Implementation Plan (SIP) revision concerning a low-enhanced motor vehicle inspection and maintenance (I/M) program under section 110 of the Clean Air Act (the Act) as amended in 1990. Based on the proposed approval, EPA is making an interim final determination by this action, that the State has more likely than not cured the deficiencies prompting the original disapproval (November 19, 1997, 62 FR 61633) of the Louisiana enhanced I/M SIP revision. This action will defer the future application of the offset sanction and the highway sanction. Although this action is effective upon signature, EPA will take comment on this interim final determination. The EPA will publish a final action taking into consideration any comments received on this interim final action.

EFFECTIVE DATE: August 10, 1999.

Comments: Comments must be received on or before September 20, 1999.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Louisiana Department of Environmental Quality, Air Quality Compliance Division, 7290 Bluebonnet, 2nd Floor, Baton Rouge, Louisiana.

Louisiana Department of Environmental Quality Capital Regional

Office, 11720 Airline Highway, Baton Rouge, Louisiana.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Rennie, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7367.

SUPPLEMENTARY INFORMATION:

I. Background

Louisiana's May 1996 I/M SIP Revision Approval Status

In a December 2, 1997, letter to the Governor, EPA notified Louisiana that the conditional approval of the State's enhanced I/M SIP revision, conditionally approved on June 9, 1997, (62 FR 31388) had converted to a disapproval because Louisiana failed to meet the conditions specified for approval. A later correction notice dated February 13, 1998, changed the effective date of the disapproval to the February 13, 1998, date of publication (63 FR 7289). A letter dated March 4, 1998, informed the State of this change. The disapproval triggered the 18-month time clock for the mandatory application of sanctions under section 179(a) of the Act. The 18-month clock expires on August 13, 1999.

On August 20, 1998, the Governor of the State requested parallel processing of its I/M program SIP revision. We acknowledged the State's request in a September 3, 1998, letter. On October 20, 1998, the State made available a proposed I/M SIP revision for public comment and parallel processing by EPA. We proposed conditional approval on December 30, 1998, in 63 FR 71807. The State submitted the adopted I/M SIP on February 12, 1999, under the Governor's signature. Because the State has now submitted a SIP that EPA believes is approvable for its enhanced I/M program, we believe this interim final determination is justified. We conclude that Louisiana has more likely than not corrected the deficiency that initiated the sanctions clock, and therefore do not believe that sanctions are warranted simply because a State approved I/M SIP revision has not been finally approved by EPA.

We are making this interim final determination now because a final conditional approval requires amendments to the Federal I/M regulation that will allow the State to operate the I/M program as described in the SIP. The Administrator signed a notice of proposed rulemaking on August 6, 1999, proposing amendments to the Federal I/M regulation that will accommodate Louisiana's I/M program. Because we believe these amendments

are justified, we are making this interim final determination to defer sanctions.

EPA's Current Rulemaking Actions

We believe that the submission of the I/M SIP revision that we proposed to approve more likely than not cures the SIP deficiency that triggered the sanctions clock. Therefore, with this finding the imposition of sanctions for that deficiency is stayed for the duration of EPA's rulemaking process on this I/M SIP revision. This interim determination will not halt or reset the sanctions deadline, but will defer implementation of sanctions until either: the proposed conditional approval converts to a disapproval, or the State's enhanced I/M SIP is fully approved or disapproved.

Today EPA is also providing the public with an opportunity to comment on this interim final determination. If, based on any relevant comments we receive on this interim final determination action or the proposed conditional approval, we determine that the SIP revision is not finally approvable, we will take further action to disapprove the State's I/M SIP revision. If EPA does disapprove the I/M revision, or if EPA's conditional approval of the Louisiana I/M SIP revision is not finalized, then sanctions would be applied as required under 179(a) of the Act and 40 CFR 52.31.

II. EPA Action

What Action Is EPA Taking?

Based on the proposed conditional approval previously published in the **Federal Register**, we believe that the State has more likely than not corrected the deficiency that prompted the original disapproval of the Louisiana enhanced I/M SIP. Therefore, we conclude that sanctions should be stayed for the duration of Louisiana's proposed conditional SIP approval.

What Is the Effective Date for This Rule?

The effective date for this rule is August 10, 1999, the date this action was signed.

Because we have preliminarily determined that the February 12, 1999, I/M SIP revision is conditionally approvable, we believe that relief from future sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.¹ See 5 U.S.C. 553(b)(B). We

¹ As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective

believe that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. We have reviewed the State's October 1998, proposed SIP revision and the February 1999, adopted SIP revision. Through this interim final determination action, the Agency finds the State has more likely than not corrected the deficiency for which the sanctions clock was started (i.e., failure of the State to provide legislative authority to implement and continuously operate an I/M program under sections 182 and 184 of the Act).

Therefore, it is not in the public interest to initially apply sanctions when the State has most likely corrected the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking fully approving the State's I/M SIP revision. Therefore, we believe that it is necessary to use the interim final rulemaking process to defer sanctions while we complete our rulemaking process on the approvability of the State's I/M SIP revision. In addition, we are invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local,

date and EPA will consider any comments received in determining whether to reverse such action.

and tribal governments, the nature of their concern, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal government "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's interim final determination does not create a mandate on State, local, or tribal governments. The determination does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The interim final determination is not subject to E.O. 13045 because it is not economically significant under E.O. 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to

issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's interim final determination does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because conditional approval of SIP submittals under section 110 and subchapter I, part D of the Act does not create any new requirements but simply approves requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA

to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the interim final determination does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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. The 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 U.S. Comptroller General prior to publication of the rule in the **Federal Register**. This determination is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 October 19, 1999. 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, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: August 10, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region VI.

[FR Doc. 99-21660 Filed 8-19-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

General Information, Regulations, and Definitions

CFR Correction

In Title 49 of the Code of Federal Regulations, parts 100 to 185, revised as of Oct. 1, 1998, on pages 88, 89, and 91, §§ 171.11 (d)(9)(iii), 171.12 (b)(8)(iii), and 171.12a (b)(5)(iii) are corrected by removing the word "POISON" the first time it appears and adding in its place the words "POISON INHALATION HAZARD".

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990506120-9220-02; I.D.
032499E]

RIN 0648-AL80

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Catch Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), NMFS implements several management changes. For Atlantic group king mackerel, total allowable catch (TAC) is increased. For Atlantic group Spanish mackerel, TAC is decreased; the allocation of TAC between the commercial and recreational sectors is revised; and an incidental catch allowance for vessels using gillnets with

a mesh size less than 3.5 inches (8.9 cm) is established. For Gulf group king mackerel, a commercial trip limit is established in the western zone, and a 0-fish bag limit is established for captain and crew on for-hire vessels. For both Gulf and Atlantic group king mackerel, the minimum size limit is increased. The intended effects of this rule are to protect king and Spanish mackerel from overfishing and maintain healthy stocks while still allowing catches by commercial and recreational fisheries.

DATES: This rule is effective September 20, 1999.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727-570-5305.

SUPPLEMENTARY INFORMATION: The fisheries for coastal migratory pelagic resources are regulated under the FMP. The FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 622.

In accordance with the framework procedures of the FMP, the Councils recommended, and NMFS published, a proposed rule (64 FR 29622, June 2, 1999) to implement the following measures: (1) For Atlantic group king mackerel, increase the commercial quota and the recreational allocation and revise the commercial trip limits off North Carolina and the Mid-Atlantic states; (2) for Atlantic group Spanish mackerel, decrease the commercial quota and recreational allocation; change the commercial/recreational allocation from 50/50 to 55/45; and establish an incidental catch allowance for vessels using gillnets with a mesh size less than 3.5 inches (8.9 cm); (3) for Gulf group king mackerel, establish a commercial trip limit in the western zone and establish a 0-fish bag limit for captain and crew on for-hire vessels; and (4) for both Gulf and Atlantic group king mackerel, increase the minimum size limit. That proposed rule described the need and rationale for these revisions. Those descriptions are not repeated here.

Comments and Responses

NMFS received five comments.

Comment 1: After reviewing the 1999 Mackerel Stock Assessment Report (MSAP), the South Atlantic Council requested that NMFS not implement the proposed trip limit decrease from 3,500 to 2,000 lb (1588 to 907 kg) for Atlantic group king mackerel for commercial vessels operating north of the North Carolina/South Carolina border and south of the New York/Connecticut border, nor the proposed trip limit

increase from 50 to 75 fish for Gulf group king mackerel in the Florida east coast subzone. The 1999 MSAP indicated that the TAC for Atlantic group king mackerel could be increased. Thus the trip limit reduction for the king mackerel fishery north of the North Carolina/South Carolina border was unnecessary. The Council anticipates that the fishery should be able to continue year-round without a closure with the existing 3,500 lb (1,588 kg) trip limit, thereby increasing the economic benefits of the fishery. The fishery for Gulf group king mackerel in the Florida east coast subzone closed on March 13, 1999, under a 50-fish trip limit. Thus the Council believed that increasing the bag limit would shorten the season further, and lessen the social and economic benefits to the fishery.

Response: NMFS considers the Council's comment as a request to withdraw the proposed reduction in the commercial trip limit for Atlantic group king mackerel north of the North Carolina/South Carolina border and the proposed increase in the commercial trip limit for Gulf group king mackerel in the Florida east coast subzone as was described in the proposed rule. NMFS agrees with the Council's rationale for not implementing the subject proposed trip limit changes and has withdrawn them from the final rule. The Atlantic group king mackerel stock is not overfished, and the 1999 MSAP indicates that an increase in TAC for this stock is appropriate; a reduced trip limit for fisheries on Atlantic group king mackerel is no longer necessary to slow the rate of harvest in regard to the annual commercial quota. Furthermore, given that the fishery for the Gulf group king mackerel in the Florida east coast subzone closed during the 1998/1999 fishing year under a 50-fish trip limit, NMFS agrees that increasing the trip limit to 75 fish would result in an even earlier closure thus reducing the social and economic benefits of the fishery. Not implementing these proposed trip limit changes also should avoid confusion in the fishery by maintaining long-standing trip limits, to which the fishermen are accustomed and should not have any adverse biological consequences regarding the conservation of the affected stocks.

Comment 2: The South Atlantic Council requested that NMFS promulgate the catch specifications for Atlantic group king and Spanish mackerel that the Council recommended at its June 1999 meeting rather than the specifications that were previously recommended and that were included in the proposed rule. These