[FR Doc. 99–32375 Filed 12–17–99; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 082–1082; FRL–6506–2]

Approval and Promulgation of Implementation Plans and State Operating Permits Programs; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is announcing the final approval of the Missouri ''Definitions and Common Reference Tables'' rule and certain portions of the Missouri ''Operating Permits'' rule as revisions to the Missouri State Implementation Plan (SIP) and as revisions to the State operating permits program. These revisions clarify the Missouri rules, update the rules for consistency with Federal regulations and other state rules, and are consistent with EPA guidance.

EFFECTIVE DATE: This rule will be effective January 19, 2000.

ADDRESSES: Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. (913) 551–7975.

SUPPLEMENTARY INFORMATION:

Background

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter (PM), and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

The CAA requires each state to have a Federally approved SIP which protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52 entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR but are ''incorporated by reference,'' which means that EPA has approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violators as described in the CAA.

What is the Part 70 (Operating Permits) Program?

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the Part 70 (operating permits) program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or particulate matter less than 10 microns in diameter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revisions to the state operating permits program are also subject to public notice, comment, and EPA approval.

What are the Changes That EPA is Approving?

The revisions include changes to the definitions Rule 10 CSR 10–6.020 which: (1) Add a de minimis emission level for municipal solid waste landfills (any source which has emissions below this de minimis level is not required to obtain a new source permit), (2) remove caprolactam from the list of HAPs, and (3) revise the PM and PM_{10} definitions. These changes are all consistent with Federal regulations and EPA guidance.

The changes to the operating permits Rule 10 CSR 10–6.065 include revising the exemption for grain-handling facilities by including an exemption from Part 70 permitting requirements for country grain elevators. Also included are operating permit rule updates to make the exemptions consistent with the Missouri construction permits rule requirements, 10 CSR 10–6.060. For example, the sand and gravel operations exemption is revised to include

operations with a production rate of less than 17.5 tons per hour instead of 150,000 tons per year. These changes are consistent with EPA guidance and add consistency between the applicable rules which reduces confusion.

No comments were received in response to the public comment period regarding this rule action.

For more background information, the reader is referred to the proposal for this rulemaking published on April 6, 1999, at 64 FR 16659.

What Action is EPA Taking?

EPA is taking final action to approve, as an amendment to the SIP and the Part 70 program, the revisions to Missouri Rules 10 CSR 10–6.020, ''Definitions and Common Reference Tables,'' and 10 CSR 10–6.065, ''Operating Permits.'' These revisions clarify the Missouri rules, update the rules for consistency with Federal regulations and other state rules, and are consistent with EPA guidance.

EPA also notes that Sections (4)(A), (4)(B), and (4)(H) of Missouri Rule 10 CSR 10–6.065 are part of the basic operating permit program and are not part of the SIP or Part 70 program and will not be acted on in this rulemaking. Section (6) of Missouri Rule 10 CSR 10–6.065 is the Missouri Part 70 program and is not part of the SIP. The rationale for this action is described in more detail in the April 6, 1999, proposal.

Final Action

EPA is taking final action to approve, as an amendment to the Federally approved SIP and the Part 70 program, the revisions to Missouri Rules 10 CSR 10–6.020, ''Definitions and Common Reference Tables,'' and 10 CSR 10–6.065, ''Operating Permits,'' except Subsections (4)(A), (4)(B), and (4)(H) effective on April 30, 1998. Section (6) of Rule 10 CSR 10–6.065 contains provisions pertaining only to Missouri's Part 70 permit program, and therefore Section (6) is approved as a revision to Part 70 but not as a revision to the Missouri SIP.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 entitled ''Regulatory Planning and Review.''

B. Executive Order on Federalism

Under Executive Order 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 the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new Executive Order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)], which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 [52 FR 41685 (October 30, 1987)] on federalism still applies. This rule will not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612, because it merely approves preexisting state requirements. The rule affects only one state, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA).

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 Executive Order 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.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not establish a further health or risk-based standard because it approves provisions which implement a previously promulgated health or safety-based standard.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, 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, Executive Order 13084 requires EPA to provide to the 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, Executive Order 13084 requires EPA to develop an effective process permitting elected officials 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of Section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The RFA 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 final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *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 (''Unfunded Mandates Act''), 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 annual 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.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual 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. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the United States Comptroller General prior to publication of the rule in the **Federal Register**. This rule 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 18, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 29, 1999.

William Rice,

Acting Regional Administrator, Region VII.

Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

2. In § 52.1320, in paragraph (c), the following entries in the table under the heading for Chapter 6 are revised to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) EPA-approved regulations.

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	* * *
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	* * *
010–6.020	Definitions and Common Reference Tables.	4/30/98	December 20, 1999. [FR 71037].	
*	*	*	*	* * *
10–6.065	Operating Permits	4/30/98	December 20, 1999. [FR 71037]	The state rule has Sections (4)(A), (4)(B), and (4)(H) which are part of the basic state operating permits and not approved into the SIP. Section (6) contains provisions pertaining only to Missouri's Part 70 program and is not approved as a revision to the SIP.
*	*	*	*	* * *

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding paragraph (d) to the entry for Missouri to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permit Programs

* * * * *

Missouri

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(d) The Missouri Department of Natural Resources submitted on May 28, 1998, revisions to Missouri Rules 10 CSR 10–6.020, ''Definitions and Common Reference Tables,'' and 10 CSR 10–6.065, ''Operating Permits.'' Effective date was April 30, 1998.

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[FR Doc. 99–31964 Filed 12–17–99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General

45 CFR Part 61

RIN 0906–AA46

Health Care Fraud and Abuse Data Collection Program: Reporting of Final Adverse Actions; Correction

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule; correction amendment.

SUMMARY: This document contains a correction to the final regulations which were published in the **Federal Register** on Tuesday, October 26, 1999 (64 FR 57740). These regulations established a national health care fraud and abuse data collection program for the reporting and disclosing of certain final adverse actions taken against health care providers, suppliers and practitioners, and for maintaining a data base of final adverse actions taken against health care providers, suppliers and practitioners. An inadvertent error appeared in the text of the regulations concerning when the subject of a report, or a designated representative, may dispute the accuracy of the report. As a result, we are making a correction to 42 CFR 61.15(a) to assure the technical correctness of these regulations.

EFFECTIVE DATE: December 20, 1999.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619–0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION: The HHS Office of Inspector General (OIG) issued final regulations on October 26, 1999 (64 FR 57740) that established a national health care fraud and abuse data collection program—the Healthcare Integrity and Protection Data Bank (HIPDB)—for the reporting and disclosing of certain final adverse actions taken against health care providers, suppliers and practitioners, and for maintaining a data base of final adverse actions taken against health care providers, suppliers and practitioners. The final rule established a new 45 CFR part 61 to implement the requirements for reporting of specific data elements to, and procedures for obtaining information from, the HIPDB. In that final rule, an inadvertent error appeared in § 61.15 of the regulations and is now being corrected.

In § 61.15, addressing how to dispute the accuracy of HIPDB information, the regulatory language incorrectly indicated that the subject of a report, or his her or its designated representative, was limited to 60 calendar days from receipt of the report to dispute the report's accuracy. The intent of this correction is to clarify that the subject or designated representative may amend the report at any period in time. As indicated in the preamble of the final rule that outlined the procedures for obtaining access to a report, submitting a statement, filing a dispute and revising disputed information, the Secretary is exempting the HIPDB from the Department's Privacy Act regulation requirements (45 CFR part 5b) in order to establish a more comprehensive and generous notification, access and correction procedure. The inadvertent language did not appear in the preamble or in other provisions of the regulations text. To be consistent with the preamble and the regulatory provisions of the final rule, we are correcting an inadvertent error that appeared in § 61.15(a). In addition, we are also clarifying § 61.15(a) by making cross-reference to the access rights afforded the subject of a report as set forth in § 61.12(a)(3).

List of Subjects in 45 CFR Part 61

Billing and transportation services, Durable medical equipment suppliers and manufacturers, Health care insurers, Health maintenance organizations, Health professions, Home health care agencies, Hospitals, Penalties, Pharmaceutical suppliers and manufacturers, Privacy, Reporting and recordkeeping requirements, Skilled nursing facilities.

Accordingly, 45 CFR part 61 is corrected by making the following correcting amendment:

PART 61—HEALTHCARE INTEGRITY AND PROTECTION DATA BANK FOR FINAL ADVERSE INFORMATION ON HEALTH CARE PROVIDERS, SUPPLIERS AND PRACTITIONERS

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 1320a–7e.

2. Section 61.15 is amended by revising paragraph (a) to read as follows:

§ 61.15 How to dispute the accuracy of Healthcare Integrity and Protection Data Bank information.

(a) *Who may dispute the HIPDB information.* The HIPDB will routinely mail or transmit electronically to the subject a copy of the report filed in the HIPDB. In addition, as indicated in § 61.12(a)(3), the subject may also request a copy of such report. The subject of the report or a designated representative may dispute the accuracy of a report concerning himself, herself or itself as set forth in paragraph (b) of this section.

* * * * *

Dated: December 14, 1999.

Joel Schaer,

OIG Regulations Officer.

[FR Doc. 99–32792 Filed 12–17–99; 8:45 am]

BILLING CODE 4152–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2687; MM Docket No. 98–194; RM–9360]

Radio Broadcasting Services; Jewett and Windham, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ridgefield Broadcasting Corporation, reallots Channel 250A from Jewett, NY, to Windham, NY, as the community's first local aural service, and modifies Station WAXK's construction permit to specify Windham as its community of license. See 63 FR 64941, November 24, 1998. Channel 250A can be allotted to Windham in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.6 kilometers (2.3 miles) northwest, at