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, Intgovernmental relations, Reporting and recordkeeping.

Dated: November 16, 1998.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, 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 HH—New York

2. Section 52.1679 is amended by revising the entry for ''Part 211, General Prohibitions'' to read as follows:

§ 52.1679 EPA-approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
* *	*	* *	* *
Part 211, General Prohibitions	8/11/83	November 27, 1998 [citation of this document].	Section 211.2 has been removed from the approved plan.
* *	*	* *	* *

[FR Doc. 98–31542 Filed 11–25–98; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 055–1055; FRL–6134–3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve the State Implementation Plan (SIP) revisions submitted by the state of Missouri to broaden the current visible emissions rule exceptions to include smoke-generating devices. This revision would allow smoke generators to be used for military and other types of training when operated under applicable requirements.

DATES: This rule is effective on December 28, 1998.

ADDRESSES: Comment may be addressed to Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the state submittal are available at the following address for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air & Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551–7975.

SUPPLEMENTARY INFORMATION:

I. Background

This amendment broadens the current rule exceptions to include smoke-generating devices in general when a required permit or a written determination that a permit is not required has been issued. The amendment defines a smoke-generating device as a specialized piece of equipment which is not an integral part of a commercial, industrial or manufacturing process and whose sole purpose is the creation and dispersion of fine solid or liquid particles in a gaseous medium. This revision would allow smoke generators to be used for military training at such facilities as Fort Leonard Wood as long as such facilities operate in accordance with applicable permit requirements.

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 May 7, 1998, at 63 FR 25191.

II. Final Action

The EPA is taking final action to approve, as a revision to the SIP, the amendment to Rule 10 CSR 10–3.080, ''Restriction of Emission of Visible Air Contaminants,'' submitted by the state of Missouri on July 10, 1996.

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 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 12875

Under Executive Order 12875, the 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 or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires the EPA to provide to the OMB a description of the extent of the EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the 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 does 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 the 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084 the 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 the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the 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. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create 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 CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the 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, the 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 the 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 the 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 approval action proposed 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 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 January 26, 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, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 23, 1998.

Dennis Grams,

Regional Administrator, Region VII.

Part 52, 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. Section 52.1320 is amended by adding paragraph (c)(109) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(109) This State Implementation Plan (SIP) revision submitted by the state of Missouri on July 10, 1996, broadens the current rule exceptions to include smoke-generating devices. This revision would allow smoke generators to be used for military and other types of training when operated under applicable requirements.

(i) Incorporation by reference.

(A) Regulation 10 CSR 10–3.080, ''Restriction of Emission of Visible Air Contaminants,'' effective on May 30, 1996.

[FR Doc. 98–31541 Filed 11–25–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 409, 410, 411, 413, 424, 483, and 489

[HCFA–1913–N2]

RIN 0938–AI47

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Reopening of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of reopening of comment period for interim final rule.

SUMMARY: We published an interim final rule with comment period in the **Federal Register** on May 12, 1998 (63 FR 26252). That interim final rule implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. Those include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes.

A document published on July 13, 1998 extended the comment period for the May 12, 1998 interim final rule until September 11, 1998. This document reopens and extends the comment period for an additional 30 days after the date of publication of this notice. The document also clarifies the explanation of the Federal rates.

DATES: The comment period is reopened and extended to 5 p.m. on December 28, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1913–IFC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5–09–26, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1913-IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890). For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT:

Laurence Wilson, (410) 786–4603 (for general information).

John Davis, (410) 786–0008 (for information related to the Federal rates).

Dana Burley, (410) 786–4547 (for information related to the case-mix classification methodology).

Steve Raitzyk, (410) 786–4599 (for information related to the facility-specific transition payment rates).

Bill Ullman, (410) 786–5667 (for information related to consolidated billing and related provisions).

SUPPLEMENTARY INFORMATION: On May 12, 1998, we issued an interim final rule with comment period in the **Federal Register** (63 FR 26252) that implements provisions in section 4432 of the Balanced Budget Act of 1997 related to Medicare payment for skilled nursing facility services. Those include the implementation of a Medicare prospective payment system for skilled nursing facilities, consolidated billing, and a number of related changes. We indicated that comments would be considered if we received them by July 13, 1998.

Because of the complexity and scope of the interim final rule and because numerous members of the industry and professional associations requested more time to analyze the potential consequences of the rule, we published a notice on July 13, 1998, which extended the comment period until September 11, 1998.

Because of further requests from industry and professional associations to extend the comment period, we have decided to reopen and extend the comment period. This document announces the reopening and extension of the public comment period to December 28, 1998.

Additionally, because of a request from industry and professional associations, we are clarifying our explanation of the Federal rates. Paragraph A.3.a in section II of the May 12, 1998 interim final rule on the prospective payment system for skilled nursing facilities describes the cost data used in the development of the Federal rates. This paragraph indicates that, in developing the per diem costs of skilled nursing facilities, the cost data (including the estimate of Part B costs) are separated into components based on their relationship to the case-mix indices described earlier in the rule. This is done to facilitate standardization of the Federal rates and the application of the case-mix adjustment. This paragraph goes on to detail that costs related to nursing (excluding nurse management) and social service salaries (including benefits) and total costs (after allocation of overhead expenses) of non-therapy ancillary services are grouped into the component related to the nursing case-mix index. As indicated in the rule, this component of cost was related to the ''nursing component'' of the Federal rates detailed in Tables 2.A, 2.B, 2.E, and 2.F.

Members of the public requested that we publish information in the **Federal Register** concerning this area of the rate-setting process. Specifically, members of the public requested information on the proportion of non-therapy ancillaries to nursing and social services costs included in the nursing component of the rates enumerated in the tables cited above. Accordingly, we have determined the approximate percentage of non-therapy ancillary costs and nursing and social services salary costs (including benefits) included in this component of the Federal rate. For the Federal rates associated with urban areas (Tables 2.A and 2.E), 43.4 percent of the nursing component is related to non-therapy ancillary costs (including Part B non-therapy ancillary services) and 56.6 percent is related to nursing and social services salary costs. For the Federal rates associated with rural areas (Tables 2.B and 2.F), 42.7 percent of the nursing component is related to non-