

§ 21.5822 [Amended]

■ 3. Section 21.5822 is amended by:

■ a. In paragraphs (b)(1)(i) and (b)(2)(i), removing “\$919” and adding, in each place, “\$959”, and by removing “2001–02” and adding, in each place, “2002–03”.

■ b. In paragraphs (b)(1)(ii) and (b)(2)(ii), removing “\$459.50” and adding, in each place, “\$479.50”, and by removing “2001–02” and adding, in each place, “2002–03”.

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BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[OH 157–2 FRL–7588–9]

Clean Air Act Approval of Revision to Operating Permits Program in Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve, as a revision to Ohio’s title V air operating permits program, revisions to Ohio’s regulations for insignificant emissions units (IEUs), Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. In a Notice of Deficiency published in the **Federal Register** on April 18, 2002, EPA notified Ohio of EPA’s finding that Ohio’s provisions for insignificant emissions units and Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations did not meet minimum Federal requirements. Final approval of this program revision resolves the deficiency identified in the Notice of Deficiency and removes the potential for any resulting consequences, including sanctions, with respect to the April 18, 2002 NOD.

DATES: Effective December 22, 2003.

ADDRESSES: Copies of Ohio’s submittal and other supporting information used in developing this action are available for inspection during normal business hours at the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT:

Genevieve Damico, Environmental Engineer, Air Permits Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4761, damico.genevieve@epa.gov.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

- A. What Is the History of This Action?
- B. Did OEPA Hold a Public Hearing?
- C. What Action Is EPA Taking Today?
- D. Statutory and Executive Order Reviews

A. What Is the History of This Action?

The Clean Air Act (CAA or Act) requires all state and local permitting authorities to develop operating permits programs that meet the requirements of title V of the Act, 42 U.S.C. 7661–7661(f), and its implementing regulations, 40 CFR part 70 (part 70). Ohio submitted its operating permits program in response to this directive. EPA granted full approval to Ohio’s title V operating permits program on August 15, 1995 (60 FR 42045).

Ohio’s title V operating permits program is implemented by the Ohio Environmental Protection Agency (OEPA) and local air pollution control agencies.

Pursuant to section 502(i) of the Act and 40 CFR 70.10(b)(1), EPA notified Ohio of EPA’s finding that Ohio’s regulations for IEUs and Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations did not meet minimum Federal requirements in a Notice of Deficiency (NOD) published in the **Federal Register** on April 18, 2002 (67 FR 19175). This was necessary to make these aspects of the Ohio program consistent with the other permitting programs throughout the country.

On June 18, 2003, OEPA proposed revisions to its regulations for IEUs, Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. OEPA intended the proposed revisions to its regulations to resolve deficiencies in Ohio’s title V program identified by EPA in the NOD. To expedite the process, Ohio submitted to EPA proposed revisions while it processed them at the State level. On September 30, 2003, EPA proposed to approve OEPA’s proposed revisions to its title V regulations. See 68 FR 56220. The State public comment period on the OEPA regulations ended on July 29, 2003. On September 16,

2003, OEPA submitted the final revisions to its title V regulations and asked EPA to give final approval to the revisions. The revisions submitted by OEPA on September 16, 2003 are identical in substance to the proposed regulations for which EPA proposed approval on September 30, 2003.

EPA received no comments on its proposal to approve OEPA’s proposed revisions to its title V regulations. Accordingly, EPA is taking final action to approve OEPA’s final revisions to its IEU provisions, Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. OEPA’s final revisions are described in EPA’s proposed approval notice. See 68 FR 56220.

B. Did OEPA Hold a Public Hearing?

On June 18, 2003, OEPA proposed revisions to its regulations for IEUs, Ohio’s regulations requiring reports of any required monitoring at least every six months and prompt reports of deviations, and other provisions of Ohio’s title V regulations. OEPA held a public hearing on these revisions on July 28, 2003, in Columbus, Ohio. The public comment period closed on July 29, 2003.

C. What Action Is EPA Taking Today?

EPA is taking final action to approve, as a revision to OEPA’s title V air operating permits program, revisions to OEPA’s regulations for IEUs and reporting, specifically, revisions to OAC 3745–77–02(E), 3745–77–07(A)(13), 3745–77–07(A)(3)(c)(ii) and (iii), 3745–77–07(I), and 3745–77–08(C). EPA has determined that these changes meet the requirements of title V and part 70 relating to IEUs and reporting, and adequately address the deficiency identified in the Notice of Deficiency published in the **Federal Register** on April 18, 2002 (67 FR 19175). EPA is also approving Ohio’s new provisions at 3745–77–01(U), 3745–77–01(W)(2)(aa), 3745–77–01(MM) and 3745–77–01(NN). Ohio’s program revision satisfactorily addresses the program deficiency identified in EPA’s NOD, published on April 18, 2002 (67 FR 19175). Because Ohio timely corrected those deficiencies, see 40 CFR 70.10(b), there are no potential consequences of the NOD, such as sanctions or promulgation of a federal operating permits program.

Because these rules apply throughout the State of Ohio, this approval applies to all State and local agencies that implement Ohio’s operating permits program.

D. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211; Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this action approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000).

Executive Order 13132 Federalism

This action also does not have federalism implications because it does not have substantial direct effects on the 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 13132, "Federalism" (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act.

Executive Order 13045 Protection of Children From Environmental Health and Safety Risks

This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under executive order 12866.

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

Governmental Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of

Unanticipated Takings" issued under the executive order, and has determined that the rule's requirements do not constitute a taking.

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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 Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 20, 2004. 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 70

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

Dated: November 10, 2003.

Bharat Mathur,

Regional Administrator, Region 5.

■ Chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 70—[AMENDED]

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

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

- 2. In appendix A to part 70, the entry (a) for Ohio is revised to read as follows:

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

* * * * *

Ohio

(a) Ohio Environmental Protection Agency (OEPA): Submitted on November 1, 1993; interim approval effective on December 9, 1994; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on September 12, 2001; revision submitted on September 16, 2003; revision approved December 22, 2003.

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[FR Doc. 03–29004 Filed 11–19–03; 8:45 am]

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CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1600

Organization and Functions of the Chemical Safety and Hazard Investigation Board

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Final rule.

SUMMARY: This rule provides information on the Chemical Safety and Hazard Investigation Board's organization, functions, and operations.

DATES: This rule is effective November 20, 2003.

FOR FURTHER INFORMATION CONTACT: Raymond C. Porfiri, Office of the General Counsel, (202) 261–7600.

SUPPLEMENTARY INFORMATION: This final rule informs the public about the structure, function, operations, and quorum requirements of the Chemical Safety and Hazard Investigation Board (CSB).

Regulatory Impact

1. Administrative Procedure Act

In promulgating this rule, the CSB finds that notice and public comment are not necessary. Section 553(b)(3)(A) of Title 5, United States Code, provides that when regulations involve matters of agency organization, procedure, or practice, the agency may publish regulations in final form. In addition, the CSB finds, in accordance with 5 U.S.C. 553(d), that a delayed effective date is unnecessary. Accordingly, these

regulations are effective upon publication.

2. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a rule that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The CSB has considered the impact of this final rule under the Regulatory Flexibility Act. The General Counsel certifies that this final rule will not have a significant economic impact on a substantial number of small business entities.

3. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

4. Unfunded Mandates Reform Act of 1995

This final rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. This rule does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

List of Subjects in 40 CFR Part 1600

Organization and functions (Government agencies).

- For the reasons stated in the preamble, the Chemical Safety and Hazard Investigation Board adds a new 40 CFR part 1600 to read as follows:

PART 1600—ORGANIZATION AND FUNCTIONS OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sec.

- 1600.1 Purpose.
- 1600.2 Organization.
- 1600.3 Functions.
- 1600.4 Operation.
- 1600.5 Quorum and voting requirements.
- 1600.6 Office location.

Authority: 5 U.S.C. 301, 552(a)(1); 42 U.S.C. 7412(r)(6)(N).

§ 1600.1 Purpose.

This part describes the organization, functions, and operation of the Chemical Safety and Hazard Investigation Board (CSB). The CSB is an independent agency of the United States created by the Clean Air Act Amendments of 1990 [Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7412(r)(6) *et seq.*]. Information about the CSB is available from its Web site, <http://www.csb.gov>.

§ 1600.2 Organization.

(a) The CSB's Board consists of five Members appointed by the President with the advice and consent of the Senate. The President designates one of the Members as Chairperson with the advice and consent of the Senate. The Members exercise various functions, powers, and duties set forth in the Clean Air Act Amendments of 1990 (42 U.S.C. 7412(r)(6) *et seq.*).

(b) The CSB's staff is comprised of the following administrative units:

- (1) The Office of the Chief Operating Officer;
- (2) The Office of Investigations and Safety Programs;
- (3) The Office of the General Counsel;
- (4) The Office of Financial Operations;
- (5) The Office of Management Operations; and
- (6) The Office of Equal Employment Opportunity.

§ 1600.3 Functions.

(a) The CSB investigates chemical accidents and hazards, recommending actions to protect workers, the public, and the environment. The CSB is responsible for the investigation and determination of the facts, conditions, and circumstances and the cause or probable cause or causes of any accidental release resulting in a fatality, serious injury, or substantial property damages.

(b) The CSB makes safety recommendations to Federal, State, and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration and private organizations to reduce the likelihood of recurrences of chemical incidents. It initiates and conducts safety studies and special investigations on matters pertaining to chemical safety.

(c) The CSB issues reports pursuant to its duties to determine the cause or probable cause or causes of chemical incidents and to report the facts, conditions, and circumstances relating to such incidents; and issues and makes available to the public safety recommendations, safety studies, and reports of special investigations.