SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled

CFR Correction

In title 20 of the Code of Federal Regulations, parts 400 to 499, revised as of Apr. 1, 1997, on pages 795 and 796, in § 416.994a, paragraphs (e)(1) and (f)(4) were incorrectly amended. The correct texts of the paragraphs read as follows:

§ 416.994a How we will determine whether your disability continues or ends, and whether you are and have been receiving treatment that is medically necessary and available, disabled children.

* * * * *

(e) * * *

(1) *Substantial evidence shows that, based on new or improved diagnostic techniques or evaluations, your impairment(s) is not as disabling as it was considered to be at the time of the most recent favorable decision.* Changing methodologies and advances in medical and other diagnostic techniques or evaluations have given rise to, and will continue to give rise to, improved methods for determining the causes of (i.e., diagnosing) and measuring and documenting the effects of various impairment on children and their functioning. Where, by such new or improved methods, substantial evidence shows that your impairment(s) is not as severe as was determined at the time of our most recent favorable decision, such evidence may serve as a basis for a finding that you are no longer disabled, provided that you do not currently have an impairment(s) that meets or equals the severity of any listed impairment, and therefore results in marked and severe functional limitations. In order to be used under this exception, however, the new or improved techniques must have become generally available after the date of our most recent favorable decision.

(i) *How we will determine which methods are new or improved techniques and when they become generally available.* New or improved diagnostic techniques or evaluations will come to our attention by several methods. In reviewing cases, we often become aware of new techniques when their results are presented as evidence. Such techniques and evaluations are also discussed and acknowledged in medical literature by medical professional groups and other governmental entities. Through these sources, we develop listings of new techniques and when they become generally available. For example, we will consult the Health Care Financing Administration for its experience regarding when a technique is recognized for payment under Medicare and when they began paying for the technique.

(ii) *How you will know which methods are new or improved techniques and when they become generally available.* We will let you know which methods we consider to be new or improved techniques and when they become available through two vehicles.

(A) Some of the future changes in the Listing of Impairments in appendix 1 of subpart P of part 404 of this chapter will be based on new or improved diagnostic or evaluative techniques. Such listings changes will clearly state this fact as they are published as Notices of Proposed Rulemaking and the new or improved technique will be considered generally available as of the date of the final publication of that particular listing in the **Federal Register.**

(B) From time to time, we will publish in the **Federal Register** cumulative lists of new or approved diagnostic techniques or evaluations that have been in use since 1970, how they changed the evaluation of the applicable impairment and the month and year they became generally available. We will include any changes in the Listing of Impairments published in the Code of Federal Regulations since 1970 that are reflective of new or improved techniques. We will not process any cases under this exception using a new or improved diagnostic technique that we have not included in a published notice until we have published an updated cumulative list. The period between publications will be determined by the volume of changes needed.

* * * * *

(f) * * *

(4) *You fail to follow prescribed treatment which would be expected to improve your impairment(s) so that it no longer results in marked and severe functional limitations.* If treatment has been prescribed for you which would be expected to improve your impairment(s) so that it no longer results in marked and severe functional limitations, you must follow that treatment in order to be paid benefits. If you are not following that treatment and you do not have good cause for failing to follow that treatment, we will find that your disability has ended (see § 416.930(c)). The month your disability ends will be the first month in which you failed to follow the prescribed treatment.

[FR Doc. 97–55504 Filed 7–7–97; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 165

Beverages

CFR Correction

In title 21 of the Code of Federal Regulations, parts 100 to 169, revised as of Apr. 1, 1997, on page 508, in § 165.110, in the table in paragraph (b)(4)(i)(A) the entries for ''Sulfate'' and ''Endrin'' should be removed.

[FR Doc. 97–55505 Filed 7–7–97; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[IN 74–3; FRL–5854–4]

Approval of Section 112(l) Program of Delegation; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a request for delegation of the Federal air toxics program contained within 40 CFR parts 61 and 63 pursuant to section 112(l) of the Clean Air Act (CAA) of 1990. The State's mechanism of delegation involves State rule adoption of all existing and future section 112 standards unchanged from the Federal standards. The actual delegation of authority of individual standards will be in the form of a letter from EPA to the Indiana Department of Environmental Management (IDEM). This request for approval of a mechanism of delegation encompasses all sources not covered by the Part 70 program.

DATES: This action will become effective August 7, 1997.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR–18J, Chicago, Illinois, 60604. Please contact Sam Portanova at (312) 886–3189 to

arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, EPA Region 5, AR–18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886–3189.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Section 112(l) of the CAA enables the EPA to approve State air toxics programs or rules to operate in place of the Federal air toxics program. The Federal air toxics program implements the requirements found in section 112 of the CAA pertaining to the regulation of hazardous air pollutants. Approval of an air toxics program is granted by the EPA if the Agency finds that the State program: (1) is ''no less stringent'' than the corresponding Federal program or rule, (2) the State has adequate authority and resources to implement the program, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance. Once approval is granted, the air toxics program can be implemented and enforced by State or local agencies, as well as EPA. Implementation by local agencies is dependent upon appropriate subdelegation.

On February 7, 1996, Indiana submitted to EPA a request for delegation of authority to implement and enforce the air toxics program under section 112 of the CAA. On February 29, 1996, EPA found the State's submittal complete. In this notice EPA is taking final action to approve the program of delegation for Indiana.

EPA published a direct final rule approving Indiana's request for delegation of authority to implement and enforce the air toxics program under section 112 in the April 1, 1997, **Federal Register** (62 FR 15404). EPA also published a proposed approval of Indiana's request in the April 1, 1997, **Federal Register** (62 FR 15453). In the event that EPA received adverse comments, it would withdraw the direct final rule and publish a final action based on the proposed rule. EPA received a public comment on this action on April 30, 1997. As a result of that public comment, the April 1, 1997, direct final rule will be removed. In this document, EPA addresses the public comment and takes final action to approve Indiana's request for delegation of authority to implement and enforce the air toxics program under section 112. This action is based on the April 1, 1997, proposed rule (62 FR 15453).

II. Review of State Submittal

A. Program Summary

Requirements for approval, specified in section 112(l)(5), require that a State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule. These requirements are also requirements for an adequate operating permits program under Part 70 (40 CFR 70.4). On November 14, 1995, EPA promulgated a final interim approval under Part 70 of the State of Indiana's Operating Permit Program. The notice included the approval of a mechanism for delegation of all section 112 standards for sources subject to the Part 70 program. Sources subject to the Part 70 program are those sources that are operating pursuant to a Part 70 permit issued by the State, local agency, or EPA. Sources not subject to the Part 70 program are those sources that are not required to obtain a Part 70 permit from either the State, local agency, or EPA. This action supplements the Part 70 rulemaking in that Indiana will have the authority to implement and enforce the section 112 air toxics program regardless of a source's Part 70 applicability. The Indiana program of delegation for sources not subject to Part 70 will not include delegation of section 112(r) authority or section 112(i)(5) Early Reductions Program authority.

As stated above, this notice constitutes EPA's approval of Indiana's program of delegation of all existing and future air toxics standards, except for section 112(r) standards as they pertain to non-Part 70 sources. This delegation is for State rule adoption of all existing and future section 112 standards unchanged from the Federal standards delegation. Indiana intends to seek such delegation for all section 112 standards with the exception of section 112(r). The Indiana program of delegation will operate as follows:

1. For existing section 112 standards, IDEM has submitted a schedule for their adoption into the State regulations.

2. For a future section 112 standard for which IDEM intends to accept delegation, EPA will automatically delegate the authority to implement a standard to the State by letter unless IDEM notifies EPA differently within 45 days of EPA final promulgation of the standard. Upon receipt of the EPA letter, the State will be responsible for the implementation of the standard. Some activities necessary for effective implementation of the standard include receipt of initial notifications, recordkeeping, reporting and generally assuring that sources subject to the standard are aware of its existence.

3. IDEM will adopt the standard unchanged from the Federal standard into the State regulations as expeditiously as practicable. Indiana Code (IC) 13–7–7–5 requires IDEM to adopt such standards within 9 months of the effective date of the Federal standard.

4. Upon completion of regulatory action, IDEM will submit to EPA proof of rule adoption.

5. EPA will respond with a letter delegating enforcement authority to the State. EPA will enforce the standard until such time the State has been delegated the enforcement authority.

Indiana will assume responsibility for the timely implementation and enforcement required by the standard, as well as any further activities agreed to by IDEM and EPA. When deemed appropriate, IDEM will utilize the resources of its Small Business Assistance Program to assist in general program implementation.

B. Criteria for Approval

On November 26, 1993, EPA promulgated regulations to provide guidance relating to the approval of State programs under section 112(l) of the CAA. 58 FR 62262. That rulemaking outlined the requirements of approval with respect to various delegation options. The requirements for approval, pursuant to section 112(l)(5) of the CAA, of a program to implement and enforce Federal section 112 rules as promulgated without changes are found at 40 CFR 63.91. Any request for approval must meet all section 112(l) approval criteria, as well as all approval criteria of 40 CFR 63.91. A more detailed analysis of the State's submittal pursuant to 40 CFR 63.91 is contained in the Technical Support Document included in the docket of this rulemaking.

Under section 112(l) of the CAA, approval of a State program is granted by the EPA if the Agency finds that it: (1) is ''no less stringent'' than the corresponding Federal program, (2) that the State has adequate authority and resources to implement the program, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance.

C. Analysis

EPA is approving Indiana's mechanism of delegation because the State's submittal meets all requirements necessary for approval under section 112(l). The first requirement is that the program be no less stringent than the Federal program. The Indiana program is no less stringent than the

corresponding Federal program or rule because the State has requested delegation of all standards unchanged from the Federal standards.

Second, the State has shown that it has adequate authority and resources to implement the program. The Indiana Air Pollution Control Board has statutory authority to adopt rules necessary to implement the Federal Clean Air Act, as amended by the Clean Air Act Amendments of 1990. IC 13–1–1–4. This authority includes the ability to adopt federal section 112 rules as promulgated without change. Indiana has adopted several existing section 112 rules, is in the process of adopting the remaining existing section 112 rules, and commits to the expeditious adoption of future section 112 rules. Adequate resources will be obtained through section 105 grant monies awarded to States by EPA, through State matching funds, and through any monies from the State's Title V program that can be used to fund acceptable Title V activities with respect to these non-Part 70 sources.

Third, upon promulgation of a standard, Indiana will immediately begin activities necessary for timely implementation of the standard. These activities will involve identifying sources subject to the applicable requirement, education and outreach to affected sources, and providing assistance to sources in completing and submitting initial notifications. Indiana has already conducted such activities for several section 112 standards. In addition, Indiana is committed to adopting section 112 standards into the State regulations within 9 months of Federal promulgation. This schedule is sufficiently expeditious for approval.

Fourth, nothing in the Indiana program for delegation is contrary to Federal guidance.

D. Determinations.

In approving this delegation, EPA expects that the State will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the Clean Air Act or 40 CFR part 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

III. Response to Public Comment

The EPA received one comment on the April 1, 1997, **Federal Register** notice. RSR Corporation (RSR) submitted comments on behalf of its wholly owned subsidiary Quemetco, Incorporated. RSR commented that ''EPA has stated its intent to issue substantial revisions to the secondary lead NESHAP provisions.'' RSR expressed concern that IDEM could adopt unchanged federal regulations that ''are or will be obsolete'' and urged EPA to delay implementation of the delegation of the NESHAP for secondary lead smelters until EPA has promulgated final revisions to the secondary lead NESHAP.

EPA's approval of the delegation of authority to implement and enforce the air toxics program under section 112 only provides a mechanism for the State to accept delegation of authority to implement NESHAPs. State implementation of a particular NESHAP would not occur until Indiana adopts the standard into the State rule. Therefore, approval of the delegation of authority under 112(l) would not cause the State to receive automatic delegation of a standard. In addition, the delegation of authority under section 112(l) for Title V sources was established as part of the Indiana Title V program interim approval rulemaking (60 FR 57188). As a major source, Quemetco will be subject to the Title V program and, thus, Indiana already has delegation of authority under section 112(l) for this source. EPA's approval of this delegation need not be delayed in order to prevent the State implementation of the secondary lead NESHAP.

Furthermore, delegation of authority under section 112(l) and subsequent adoption of the State rule only transfers authority to implement and enforce a NESHAP from the EPA to the State. Until this action occurs, the NESHAP is implemented and enforced by EPA and sources are subject to all requirements of the Federally-promulgated standard.

RSR also requested that EPA ''establish the secondary lead NESHAP as the lead standard for use in attainment areas in the country.'' ''To promote consistency and environmental protection, RSR requests that EPA determine that the secondary lead NESHAP should replace existing, scattered lead emission standards in attainment areas.'' Since this action only addresses the delegation of authority to implement and enforce the air toxics program under section 112 to the State of Indiana, it will not address the issue of establishing lead standards in attainment areas nationwide.

RSR requests that, in this delegation, EPA ''direct Indiana to use the NESHAP to replace the standard for Quemetco in Marion County because those standards were developed in a piecemeal, fragmented fashion.'' This action only addresses delegation of authority under 112(l) and not State implementation plan rules which have been adopted by Indiana. Therefore, EPA will not address Indiana's regulatory actions for the State implementation plan in this rulemaking. Moreover, the CAA gives States the authority and primary responsibility to develop rules to address nonattainment areas within their borders. In a given case, a State may determine it is necessary to adopt or maintain requirements different from those contained in the nationally applicable rules.

IV. Final Action

The EPA is promulgating final approval of the February 7, 1996, request by the State of Indiana for delegation of section 112 standards unchanged from Federal standards because the request meets all requirements of 40 CFR 63.91 and section 112(l) of the CAA. Upon the effective date of this rule, all existing section 112 standards which have been adopted unchanged into the State rules are delegated to the State of Indiana. Future delegation of the section 112 standards to the State will occur upon EPA's promulgation of the standard according to the procedures outlined earlier in this rule.

Upon the effective date of this action, all notifications, reports and other correspondence required under section 112 standards should be sent to the State of Indiana rather than to the EPA, Region 5, in Chicago. Affected sources should send this information to: Indiana Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206–6015.

In this action, EPA approves the delegation of the Federal air toxics program pursuant to section 112(l) of the CAA. EPA published a proposed approval of this delegation on April 1, 1997, and is granting final approval with this rulemaking. The final approval shall be effective on August 7, 1997.

Copies of the State's submittal and other information relied upon for the final approval of the requested delegation are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to the State's delegated air toxics program. EPA shall consider each request for revision to the

State's delegated air toxics program in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Delegation of pre-existing Federal requirements under section 112 of the CAA does not create any new requirements, but simply allows the State to enforce Federal requirements that have been or will be separately promulgated. Therefore, because this Federal delegation approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The CAA forbids EPA to base its actions concerning State plans on such grounds. *Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rule that include a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves delegation of pre-existing Federal requirements to the State. No new Federal requirements are imposed. Accordingly, no additional costs to local or tribal governments, or the private sector, result from this action. EPA believes that the cost of any additional authority voluntarily undertaken by the State will be less than $100 million.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by section 804(2).

E. Petitions for 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 September 8, 1997. 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 63

Environmental Protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7671(q).

Dated: June 26, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97–17737 Filed 7–7–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 88–57; FCC 97–209]

Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On June 17, 1997, the Commission released an Order on Reconsideration and Second Report and Order amending several rules concerning connection of inside wiring to the telephone network. The Order on Reconsideration and Second Report and Order is intended to clarify our demarcation point definition and other rules in part 68.

EFFECTIVE DATE: August 7, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bill von Alven, Senior Engineer (202) 418–2342, or Marian Gordon, Special Counsel, Network Services Division, Common Carrier Bureau, (202) 418–2337.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Order on Reconsideration and Second Report and Order in the matter of Review of §§ 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of § 68.213 of the Commission's Rules filed by the Electronic Industries Association, FCC 97–209, adopted June 12, 1997, and released June 17, 1997. The Commission concurrently released a Second Further Notice of Proposed Rulemaking in the same docket. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington, D.C. or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, D.C. 20037, phone (202) 857–3800.

Analysis of Proceeding

1. In the Order on Reconsideration, and Second Report and Order, the Commission clarifies its demarcation point definition and addresses other part 68 rules regarding inside wiring. The Commission finds that, because there may be factors such as physical