

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.*). Because this rule 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 any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does 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 (65 FR 67249, November 9, 2000), nor will it 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 (64 FR 43255, August 10, 1999), because it 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 Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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 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. section 804(2). This rule will be effective August 20, 2001 unless EPA receives adverse written comments by July 20, 2001.

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 August 20, 2001. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: May 30, 2001.

Michael A. Bussell,

Acting Regional Administrator, Region 10.

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 C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(30) to read as follows:

§ 52.70 Identification of plan.

(c) * * *

(30) On November 1, 1999, the Alaska Department of Environmental Conservation (ADEC) submitted a SIP revision to revise the visible emission limit for coal burning boilers, during startup; shutdown; soot-blowing; grate cleaning; or other routine maintenance activities, that began operation before August 17, 1971, and submitted the required demonstration. This SIP revision is approved for the following facilities that submitted the required demonstration: Golden Valley Electric Association (GVEA), Healy (Unit #1); Eielson Air Force Base, Fairbanks (6 units); Aurora Energy, Fairbanks (4 units); and Clear Air Force Base, Clear (3 units). Additionally, we are approving a revision to the definitions section that will add definitions of grate cleaning and soot-blowing.

(i) Incorporation by reference.

(A) 18 Alaska Administrative Code (AAC) 50.055(a)(9), Industrial Processes and Fuel-Burning Equipment; as State effective on November 4, 1999. 18 AAC 50.990, subsections (106) and (107), Definitions; as State effective on January 1, 2000.

[FR Doc. 01-15416 Filed 6-19-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 099-0038; FRL-7000-1]

Withdrawal of Direct Final Rule Revising the Arizona State Implementation Plan, Pinal-Gila Counties Air Quality Control District and Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: EPA is withdrawing direct final approval of the rescision of rules from the Pinal-Gila Counties Air Quality Control District (PGCAQCD) portion of the Arizona State Implementation Plan (SIP) that were published in the **Federal Register** on May 1, 2001 (66 FR 21675).

EFFECTIVE DATE: The direct final rule published on May 1, 2001 is withdrawn as of June 20, 2001.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744-1135.

SUPPLEMENTARY INFORMATION: On May 1, 2001 (66 FR 21727), EPA proposed to approve the rescision of various PGCAQCD rules from the Arizona State Implementation Plan (SIP). On the same day (66 FR 21675), EPA also published a direct final rule approving the rescision of these rules from the SIP. The action provided a 30 day public comment period and explained that if we received adverse comments, we would withdraw the relevant direct final action.

We did receive adverse comments, and are therefore withdrawing the direct final rescision of all of the rules. We are not opening an additional comment period. We intend to finalize action on these rules based on the May 1, 2001 proposed action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 6, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.
[FR Doc. 01-15482 Filed 6-19-01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[HCFA-3074-F]

RIN 0938-AK98

Medicare and Medicaid Programs; End-Stage Renal Disease—Waiver of Conditions for Coverage Under a State of Emergency in Houston, TX Area

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

ACTION: Final rule.

SUMMARY: This final rule grants a waiver of the end-stage renal disease conditions for coverage to permit the transplant team of an approved renal transplant center to furnish covered kidney transplant services in three specific hospitals in the Houston, Texas area during a state of emergency crisis.

EFFECTIVE DATE: These regulations are effective on June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Jackie Sheridan, (410) 786-4635, or Jennifer Doherty, (410) 786-2462.

SUPPLEMENTARY INFORMATION:

I. Provisions of this Rule

A state of emergency has resulted from a natural disaster causing massive flooding, loss of power, and disruption to basic services throughout the Houston, Texas area. A severe health and safety threat exists from the unanticipated damage done to hospitals in the entire Houston area. Approximately 2,000 hospital beds in downtown Houston have been closed, including end-stage renal disease (ESRD) facilities currently approved to furnish kidney transplant services.

Effective June 15, 2001, we are waiving the ESRD conditions for coverage in 42 CFR, part 405, subpart U to permit coverage of kidney transplant services performed by the transplant team from Memorial Hermann Hospital when performed at one of the following hospitals:

- Memorial Hermann-Memorial City Hospital (commonly referred to as Memorial City Hospital).
- Memorial Hermann Southwest Hospital (commonly referred to as Memorial Southwest Hospital).
- Memorial Hermann Southeast Hospital (commonly referred to as Memorial Southeast Hospital).

This waiver of the conditions for coverage is effective until December 15, 2001 or until Memorial Hermann Hospital re-opens to furnish kidney

transplant services, whichever date occurs first.

II. Waiver of Proposed Rulemaking & Delay of Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. We generally delay the effective date of a final rule. These procedures can be waived, however, if an agency finds good cause that the notice-and-comment and effective date delay procedures are impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. Because of the imminent danger posed to patients needing a kidney transplant and the loss of availability of facilities to perform these services, we find that notice-and-comment is impracticable, unnecessary, and contrary to the public interest.

Therefore, we find good cause to waive the notice of proposed rulemaking and delay of effective date to issue this final rule.

List of Subjects in Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

For the reasons set forth in the preamble, 42 CFR, chapter IV, is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for part 405, subpart U continues to read as follows:

Authority: Secs. 1102, 1138, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1320b-8, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr), unless otherwise noted.

Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD)

2. A new § 405.2175 is added to read as follows:

§ 405.2175 Waiver of conditions for coverage for state of emergency situations.

(a) Effective June 15, 2001, HCFA waives the ESRD conditions for coverage in this subpart to permit coverage of kidney transplant services