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) of the Clean Air Act.)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: January 29, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40, parts 52 and 81 of the Code of Federal Regulations are 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 BB—Montana

2. Section 52.1373 is amended by redesignating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.1373 Control strategy: Carbon monoxide.

* * * * *

(b) Revisions to the Montana State Implementation Plan, Carbon Monoxide Redesignation Request and Maintenance Plan for Billings, as adopted by the Montana Department of Environmental Quality on December 19, 2000, State effective December 19, 2000, and submitted by the Governor on February 9, 2001.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.327, the table entitled ''Montana-Carbon Monoxide'' is amended by revising the entry for ''Billings Area'' to read as follows:

§ 81.327 Montana.

* * * * *

MONTANA—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Billings Area:				
Yellowstone County (part):				
The following areas of Yellowstone Co. (Range and Township) sections: R25E T1N—Sections 24 through 27 and 34 through 36; R25E T1S—Sections 1, 2, and 12; R26E T1N Sections 19 through 22 and 27 through 34; R26E T1S Sections 2 through 11 and 15 through 18..	April 22, 2002.	Attainment		
* *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 02–4062 Filed 2–20–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[KY–JEFF–T5–2002–01a; FRL–7143–9]

Clean Air Act Final Approval of Operating Permit Program Revisions; Jefferson County (KY)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve revisions to the operating permit program of the Jefferson County Air Pollution Control District in Kentucky. The County's operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction. EPA granted full approval to Jefferson County's operating permit program on March 22, 1996. The County has revised its program since it received full approval and this action approves those revisions.

DATES: This direct final rule is effective on April 22, 2002 without further notice unless EPA receives adverse comments in writing by March 25, 2002. If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect. The public comments will be addressed in a subsequent final rule based on the proposed rule published in this **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to César Zapata, Air Permits Section, Air Planning Branch, EPA, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Copies of the County's submittals and other supporting documentation relevant to this action are available for inspection during normal business hours at EPA, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

FOR FURTHER INFORMATION CONTACT: César Zapata, EPA, Region 4, at (404) 562–9139 or *zapata.cesar@epa.gov/.*

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
What is being addressed in this document?
What are the program changes that EPA is approving?
What is involved in this final action?

What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the

permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, 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 operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as serious, major sources include those with the potential of emitting 50 tons per year or more of VOCs or NO_X.

What Is Being Addressed in This Document?

Jefferson County has submitted six revisions to its approved title V program since EPA granted full approval on March 22, 1996 (61 FR 11738). These submittals are dated February 20, 1998, January 11, 1999, September 30, 1999, March 17, 2000, March 21, 2001, and October 23, 2001. This document describes and approves the changes that Jefferson County has made to its approved program.

What Are the Program Changes That EPA Is Approving?

Jefferson County conducted rulemaking in July 1996 and March 1997 to change its fee provisions in Regulation 2.08. The County's title V program received full approval based on use of the ''presumptive minimum'' fee amount described in 40 CFR 70.9(b)(2)(i). Because Regulation 2.08 specified the emission fee rate, the County needed to revise it every year based on EPA's annual update to the ''presumptive minimum'' fee amount. Accordingly, Jefferson County conducted rulemaking in July 1996 to increase the fee rate. However, instead of changing the fee rate each year thereafter, the County conducted rulemaking in March 1997 to replace the rate language in Regulation 2.08 with generic Consumer Price Index language. The local-effective rule changes were submitted to EPA on January 11, 1999. The County also submitted a fee program update on September 30, 1999, demonstrating that its title V program was adequately funded by operating permit fee revenue.

In September 1996, Jefferson County conducted rulemaking to revise the permit application due dates contained in Regulation 2.16. The deadline for submitting the last two-thirds of permit applications was changed to coincide with one year from the effective date of EPA's full approval of the County's title V program. The local-effective rule change was submitted to EPA on January 11, 1999.

In November 1997 and March 2000, Jefferson County conducted rulemaking to update its acid rain program. In November 1997, the County incorporated by reference 40 CFR part 76, entitled ''Acid Rain Nitrogen Oxides Emission Reduction Program,'' and submitted the local-effective rule change to EPA on February 20, 1998. In March 2000, the County incorporated by reference the following federal acid rain rules: 40 CFR part 73, entitled ''Sulfur Dioxide Allowance System''; part 74, entitled ''Sulfur Dioxide Opt-Ins''; part 75, entitled ''Continuous Emission Monitoring''; part 77, entitled ''Excess Emissions'; and part 78, entitled ''Appeal Procedures for Acid Rain Program.'' The local-effective rule changes were submitted to EPA on March 17, 2000.

On January 10, 2000, EPA notified Jefferson County of a deficiency in its insignificant activities provisions that came to light as a result of the decision by the Ninth Circuit Court of Appeals in *Western States Petroleum Association (WSPA)* v. *EPA,* No. 95–70034 (June 17, 1996); EPA had inadvertently approved the County's title V program without identifying the exemption of insignificant activities from permit content requirements as a program deficiency. In the **Federal Register** notice granting final interim approval to Alaska's title V operating permit program (61 FR 64466, December 5, 1996), EPA acknowledged that its approval of the insignificant activity provisions in the Jefferson County program may have been inconsistent with the WSPA decision. Further review revealed this to be true, which prompted EPA to send the January 2000 letter notifying the County that a Notice of Deficiency would be published in the **Federal Register** if the deficiency was not corrected. The January 2000 letter also identified two other deficiencies in Jefferson County's insignificant activity provisions: (1) Regulation 2.16 implied that the County could add activities to its list without EPA review and approval, and (2) the list of insignificant activities did not require emission caps to ensure that potential emissions were indeed insignificant.

Jefferson County addressed the deficiencies in its insignificant activities provisions by revising the definition of ''Insignificant activity'' in Regulation 2.16 to eliminate exemptions from applicable requirements and to impose potential emission thresholds of five tons per year for regulated pollutants and 1000 pounds per year for HAPs. The County also revised its applicability provisions in Regulation 2.16 to remove the exemption of insignificant activities from permit requirements. Additional changes in the County's insignificant activities provisions include: (1) Revised permit application requirements that allow for generic grouping and treatment of insignificant activities consistent with EPA's guidance memoranda entitled ''White Paper Streamlined Development of Part 70 Permit Applications'' (July 10, 1995) and ''White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program'' (March 5, 1996); (2) revised permit content requirements that streamline monitoring, record keeping, and reporting requirements for insignificant activities consistent with EPA's White Paper 2; and (3) the requirement for sources to include current lists of insignificant activities in their annual compliance certifications. Jefferson County completed the rulemaking in December 2000 and submitted the local-effective rule changes to EPA on March 21, 2001.

What Is Involved in This Final Action?

The Jefferson County Air Pollution Control District made six submittals of revisions to its approved title V program after it received full approval on March 22, 1996, and EPA is taking final action by this notice to approve program changes in those submittals. EPA is publishing this action without prior proposal because the Agency views this

as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval should adverse comments be filed. This action will be effective April 22, 2002 unless the Agency receives adverse comments by March 25, 2002.

If EPA receives such comments, then it will withdraw the final rule and inform the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 22, 2002 and no further action will be taken on the proposed rule.

Administrative Requirements

A. Request for Public Comments

EPA requests comments on the program revisions discussed in this action. Copies of the Jefferson County submittals and other supporting documentation used in developing this notice are contained in the EPA docket file numbered KY–JEFF–2002–01 that is maintained at the EPA Region 4 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 proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. The docket files are available for public inspection at the location listed under the **ADDRESSES** section of this document. EPA will consider any comments received in writing by March 25, 2002.

B. Executive Order 12866

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

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 in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

This rule does not have Federalism implications because it will 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 rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the CAA.

E. Executive Order 13175

This rule 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).

F. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

G. 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 rule will not have a significant impact on a substantial number of small entities because operating permit program approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this 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.

H. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 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 costs to state, local, or tribal governments in the aggregate, or to the 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 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 pre-existing 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.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the

criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

J. Paperwork Reduction Act

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. 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 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).

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: January 31, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

For reasons set out in the preamble, title 40, chapter I, of the 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. Appendix A to part 70 is amended by revising paragraph (b) in the entry for Kentucky to read as follows:

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

* * * * *

Kentucky

* * * * *

(b)(1) Air Pollution Control District of Jefferson County: submitted on January 31, 1994, and supplemented on March 9, 1994, June 15, 1994, July 15, 1994, July 14, 1995, August 9, 1995, August 10, 1995, and February 16, 1996; full approval effective on April 22, 1996.

(2) Revisions submitted on February 20, 1998, January 11, 1999, September 30, 1999, March 17, 2000, March 21, 2001, and October 23, 2001; full approval of revisions effective on April 22, 2002.

* * * * *

[FR Doc. 02–3766 Filed 2–20–02; 8:45 am]

BILLING CODE 6560–50–P