[FR Doc. 96–4277 Filed 2–23–96; 8:45 am]
BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5425–4]

Clean Air Act (CAA) Operating Permit Program Revision for the State of Nebraska, City of Omaha, and Lincoln-Lancaster County Health Department (LLCHD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: Final full approval of Nebraska's Title V program was published on October 18, 1995. The document contains three administrative errors and omits two items, all in Appendix A of 40 CFR part 70, ''Approval Status of State and Local Operating Permit Programs.'' This document corrects those deficiencies.

EFFECTIVE DATE: This rule will become effective on March 27, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: At 60 FR 53875, published October 18, 1995, items (a), (b), and (c) in Appendix A contain the following errors or omissions:

(a) Concerning the Nebraska Department of Environmental Quality, this section should have cited the state's amended Title V rules submitted June 14, 1995 (referenced in section III.A and III.C.1 of the notice). Also, in III.A.C.1.a, the regulations included should read ''41'' instead of ''40–44'';

(b) Concerning the city of Omaha, this section lists a submission dated April 19, 1995. Instead, the correct date is April 19, 1994. Additionally, a finalized delegation contract between the state and the city of Omaha effective June 26, 1995, should have been cited; and

(c) LLCHD submitted its Title V program on November 12, 1993, instead of the notice's date of November 15, 1993. Finally, the cited supplemental correspondence is dated June 23, 1994, not June 27, 1994.

List of Subjects in 40 CFR Part 70

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

Dated: February 6, 1996.

Dennis Grams,

Regional Administrator.

Correction of Publication

Accordingly, the regulations (FR Doc. 95–25844) published at 60 FR 53872–53875 on October 18, 1995, are corrected as follows:

Appendix A to Part 70—[Corrected]

On page 53875, in the second column, in appendix A to part 70, the entry for the state of Nebraska, the city of Omaha, and Lincoln-Lancaster County Health Department is corrected to read as follows:

* * * * *

State of Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

(a) The Nebraska Department of Environmental Quality submitted on November 15, 1993, supplemented by correspondence dated November 2, 1994, and August 29, 1995, and amended Title V rules submitted June 14, 1995.

(b) Omaha Public Works Department submitted on November 15, 1993, supplemented by correspondence dated April 18, 1994; April 19, 1994; May 13, 1994; August 12, 1994; and April 13, 1995. A delegation contract between the state and the city of Omaha became effective on June 6, 1995.

(c) Lincoln-Lancaster County Health Department submitted on November 12, 1993, supplemented by correspondence dated June 23, 1994. Full approval effective on November 17, 1995.

* * * * *

[FR Doc. 96–3859 Filed 2–23–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 70

[PR001; FRL–5428–8]

Clean Air Act Final Full Approval of Operating Permits Program: The Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the operating permits program submitted by the Commonwealth of Puerto Rico for the purpose of complying with Federal requirements which mandate that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: This action is effective March 27, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval as well as the Technical Support Document are available for inspection during normal business hours at the following locations:

EPA Region II, 290 Broadway, 21st Floor, New York, New York 10007–1866, Attention: Steven C. Riva.

EPA Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce de Leon Avenue, Stop 22, San Juan, Puerto Rico 00907–4127, Attention: Jose Ivan Guzman.

Puerto Rico Environmental Quality Board, Air Programs Area, Eurobank Building, 431 Ponce de Leon Avenue, Hato Rey, PR 00910, Attention: Francisco Claudio.

FOR FURTHER INFORMATION CONTACT: Christine Fazio, Permitting and Toxics Support Section, at the above EPA office in New York or at telephone number (212) 637–4015. Jose Ivan Guzman of the Caribbean Field Office can be reached at (809) 729–6951, extension 223.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the Clean Air Act (''the Act''), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. If a state does not have an approved program by two years after the November 15, 1993 date, EPA must establish and implement a Federal program.

On November 14, 1995, the EPA proposed full approval of the Operating Permits Program submitted for Puerto Rico. (See 60 FR 57204). Two comment letters were received on the Proposed Approval Notice. None of the comments regarded EPA's proposed approval of Puerto Rico's Title V program; in fact, both commenters supported EPA's proposed full approval. The comments,

however, deal with implementation of the program and EPA's responses are below. In this notice, the EPA is taking final action to promulgate full approval of the Operating Permits Program for Puerto Rico.

II. Final Action and Implications

A. Analysis of State Submission

On November 14, 1995, the EPA proposed full approval of PREQB's Title V Operating Permits Program. The program elements discussed in the proposed notice are unchanged from the analysis in the Full Approval Notice and continue to fully meet the requirements of 40 CFR part 70.

B. Response to Public Comments

1. Comment by Eli Lilly and Company

Eli Lilly and Company (Lilly) asked EPA to clarify that the terms ''modifications under any provision of Title I of the Act'' and ''case by case determination'' as they appear in Puerto Rico's Title V regulation (Part VI of the Regulation for the Control of Atmospheric Pollution (RCAP)) do not include minor new source review requirements. As stated by Lilly, in both a June 20, 1995 letter from Mary Nichols, Assistant Administrator for Air and Radiation, to members of Congress and a November 7, 1995 letter from Lydia Wegman, Deputy Director of the Office of Air Quality Planning and Standards, to William Becker of STAPPA/ALAPCO, the EPA has clarified that EPA's current interpretation of Title I modification does not include modifications subject to minor new source review. While the Puerto Rico Environmental Quality Board (PREQB) did not define Title I modification in its regulation, by letter dated January 24, 1996, PREQB confirmed that it plans to follow EPA's current interpretation of Title I modification. PREQB, therefore, does not consider modifications subject to its minor new source review program to be Title I modifications. Accordingly, under Puerto Rico's Title V program, changes subject to minor new source review can be processed following minor modification procedures (See RCAP Rule 606(b)(2)) and are eligible for the operational flexibility provisions of RCAP Rule 607 provided the changes meet the other eligibility criteria of RCAP Rules 606(b)(2) and 607.

2. Comment by the Puerto Rico Manufacturer's Association

The Puerto Rico Manufacturer's Association (PRMA) raised several questions regarding implementation of the Title V program.

a. The PRMA requested that PREQB adopt EPA's July 10, 1995 ''White Paper for Streamlined Development of Part 70 Permit Applications'' (''White Paper'') as part of the Title V approval process in order to provide sources a clear and duly notified directive and to avoid random application of the White Paper. PRMA requested that EPA Region II assist PREQB in the implementation of Puerto Rico's Title V program consistent with the White Paper guidelines.

Although EPA encourages states to implement the White Paper, EPA does not require a state to adopt the White Paper as part of EPA's program approval. The White Paper was drafted as guidance and, therefore, cannot be relied upon to create any rights enforceable by any party. Nevertheless, PREQB has ''adopted'' the White Paper. In other words, PREQB has included the White Paper as part of its Title V docket and has committed, at least during the early phases of program implementation, to follow all the guidelines of the White Paper. The EPA does agree with the commenter that EPA should work with Puerto Rico on the implementation of the Program consistent with the White Paper and EPA will work closely with PREQB (as well as the PRMA) on this streamlined implementation.

b. The PRMA proposed that the current state operating permits which Title V applicants are complying with (issued under RCAP Rule 204) be presumptively defined to incorporate new source review (NSR) permit terms and conditions. Because PREQB often revises the operating permit without first reviewing the terms of the corresponding preconstruction permit, this practice has resulted in operating permits with terms and conditions which supersede and render obsolete the original preconstruction permits. In addition, searching for the old NSR permits would be extremely burdensome to both PREQB and the applicant.

The EPA agrees that for minor NSR requirements, applicants and PREQB can use the existing state operating permits in lieu of minor NSR permits in defining the applicable requirements under minor New Source Review. PREQB's practice is that the minor NSR permit expires after one year and all conditions roll into the operating permit, and then only the operating permit conditions are revised as a result of plant modifications. Therefore, it would be impractical to require applicants to use only minor NSR permits, instead of the operating permits, as the basis for determining their applicable requirements. EPA supports PRMA's suggestion and has stated on page 15 of the White Paper: ''Where a permitting authority has already converted the NSR permit into an existing State operating permit before incorporation into the part 70 permit, the terms of the current permit to operate will presumptively define how NSR permit terms should be incorporated into part 70 permits.'' However, this flexibility does not necessarily apply to Major NSR and PSD or to minor NSR permits which were used in a final PSD non-applicability determination. First, if there are inconsistencies between the source's operating permit and a Major NSR or PSD permit, the conditions in the NSR or PSD permit take precedence and must be included as an applicable requirement in the source's Title V application. Second, the flexibility to use the state operating permit in lieu of the minor NSR permit to define the applicable requirement when the minor NSR permit was used in a final PSD non-applicability determination will be decided on a case by case basis.

c. The PRMA suggested that current operating permit terms that are environmentally insignificant and irrelevant and are not required under federal laws or regulations or under federally enforceable conditions of the RCAP (''the SIP'') should be considered as appropriate exclusions from part 70 permits (or could remain on the state-only side of part 70 permits). PRMA also suggested that current operating permit conditions that do not implement federal regulatory requirements and objectives, or that may have been provided in good faith by sources in permit applications, are also good candidates for exclusion from part 70 permits.

As correctly cited by PRMA, the White Paper states that NSR permit terms (or operating permit terms if being used in lieu of a minor NSR permit) that are obsolete, extraneous, environmentally insignificant or otherwise not required by the SIP or a federally enforceable NSR program need not be incorporated into part 70 permits. The White Paper also explains and provides examples of the above types of permit conditions. For instance, NSR terms regulating construction activity during the building or modification of a source, where the construction is long completed and the statute of limitations on construction-phase activities has run out, may no longer be necessary for inclusion in a part 70 permit. Another example of information that may not need to be incorporated into a part 70 permit is information incorporated by reference from an application for a

preconstruction permit, as long as this information is not needed to enforce NSR permit terms. The White Paper states that sources as part of their Title V application could propose which conditions of the minor NSR permit (or operating permit if being used in lieu of minor NSR permit) should be considered for revision, deletion or state-only status. PREQB could then agree or disagree with the suggestions while reviewing and drafting the permit (note: this process could be delayed until the first renewal if necessary). PREQB as part of its issuance of the part 70 permit (including the public participation process) could then simultaneously revise the minor NSR (or operating) permit. As a note, EPA does not believe that most of Puerto Rico's operating permits include irrelevant or extraneous terms. EPA believes there should only be a few cases where the procedure discussed in the White Paper will take place. Because most decisions will need to be made on a case by case basis, EPA will work closely with PREQB on the issuance of these permits. It should be noted that PSD permits are not minor NSR permits. If any applicant believes their PSD permit contains extraneous conditions, the applicant must request a revision of the PSD permit from EPA (the permitting authority for PSD in Puerto Rico) before excluding the condition from its Title V application.

d. The PRMA requested that certain rules of the RCAP which are currently included as part of Puerto Rico's approved SIP be considered state enforceable only as those rules are not necessary for Puerto Rico's strategy to achieve and maintain compliance with the National Ambient Air Quality Standards. The rules suggested for deletion include Rule 404—Fugitive Emissions, Rule 411—Hydrogen Sulfide, Rule 418—Waste Gas Disposal, Rule 419—Volatile Organic Compounds, Rule 420—Objectionable Odors, Rule 421—Increment Of Progress, and Rule 424—Roof Surface Coating.

With Puerto Rico's submittal of the revised RCAP for approval into the SIP, Puerto Rico requested that the above rules be deleted from the SIP. The EPA agrees that all the above rules except Rule 404 should be state enforceable only. Rule 404 is required for compliance with Puerto Rico's PM–10 SIP (See 60 FR 28333, May 31, 1995). EPA plans to delete Rules 411, 418, 419, 420, and 421 from the SIP when EPA makes its final SIP determination on the revised RCAP. Rule 424 on Roof Surface Coating was never approved into the SIP and is currently state enforceable only. In the meantime, while EPA processes Puerto Rico's regulation for SIP approval, applicants can, for purpose of application completeness, propose to address requirements of Rules 411, 418, 419, 420, and 421 as state enforceable only. If requesting that the conditions of these 5 rules be state enforceable only, applicants should provide a notation in their application which states ''pending deletion from the SIP''. However, PREQB may not issue Title V permits with state enforceable only conditions for these five rules until after EPA has approved Puerto Rico's SIP revision. EPA will expedite the processing of this SIP in order not to adversely impact Puerto Rico's schedule for issuing permits.

C. Options for Approval/Disapproval

The EPA is promulgating full approval of the Operating Permits Program submitted to the EPA by the PREQB on November 15, 1993 with supplemental packages on March 22, 1994 and April 11, 1994 and a revised regulation on September 29, 1995. Among other things, the PREQB has demonstrated that the program will be adequate to meet the minimum elements of a State operating permits program as specified in 40 CFR part 70.

Requirements for approval, specified in 40 CFR § 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, an expeditious compliance schedule, and adequate enforcement ability, which are also requirements under part 70. In a letter dated December 29, 1994, PREQB requested delegation through 112(l) of all existing 112 standards and all future 112 standards for both part 70 and non-part 70 sources and infrastructure programs. In the letter, PREQB demonstrated that they have sufficient legal authorities, adequate resources, the capability for automatic delegation of future standards, and adequate enforcement ability for implementation of section 112 of the Act for both part 70 sources and non-part 70 sources. Therefore, the EPA is also promulgating full approval under section 112(l)(5) and 40 CFR part 63.91 to Puerto Rico for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and section 112 infrastructure programs that are unchanged from Federal rules as promulgated.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including the public comments received and reviewed by EPA on the proposal, are contained in the docket maintained at the EPA Regional Offices in New York and Puerto Rico and at PREQB. 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 full approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. 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 the 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 of the Unfunded Mandates Act 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 promulgated today 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 Federal requirements. Accordingly, no additional costs to

State, local, or tribal governments, or to the private sector, result from this action.

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: February 6, 1996.

Jeanne M. Fox,

Regional Administrator.

40 CFR part 70 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 adding the entry for Puerto Rico in alphabetical order to read as follows:

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

* * * * *

Puerto Rico

(a) The Puerto Rico Environmental Quality Board submitted an operating permits program on November 15, 1993 with supplements on March 22, 1994 and April 11, 1994 and revised on September 29, 1995; full approval effective on March 27, 1996.

(b) [Reserved]

* * * * *

[FR Doc. 96–4255 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 704

[OPPTS–82047; FRL–4982–7]

Revocation of Anthraquinone Recordkeeping and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document announces the revocation of the Toxic Substances Control Act (TSCA) section 8(a) information gathering rule on anthraquinone (CAS number 84–65–1), issued in the Federal Register of June 4, 1987. Data, as developed under the first tier of testing of an associated TSCA section 4 test rule (40 CFR 799.500), did not meet the hazard triggers for the second tier of testing under that rule. Thus, the section 8(a) reporting requirement, which has served as a mechanism to gather production/import level information that provided the basis for a production/import level trigger for the second tier of testing, is no longer needed.

EFFECTIVE DATE: This final rule takes effect on February 26, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

On November 29, 1984 (49 FR 46931), the Interagency Testing Committee (ITC) designated anthraquinone for priority testing consideration and recommended chemical fate and ecological effects testing. In response, EPA proposed a TSCA section 4 test rule and a TSCA section 8(a) reporting and recordkeeping rule for anthraquinone (50 FR 46090, November 6, 1985). These rules were finalized on June 4, 1987 (52 FR 21018), and codified at 40 CFR 799.500 and 704.30, respectively.

Under section 4(a)(1)(B) of TSCA, EPA required tiered testing. The first tier included: Water solubility; acute toxicity to chinook salmon or coho salmon, bluegill, and rainbow trout; acute toxicity to the invertebrates *Daphnia magna* or *D. pulex* and oyster; marine sediment toxicity to the amphipod *Rhepoxynius abronius*; and oyster bioconcentration. A second tier of testing would have been triggered if the Tier I test results met certain criteria and if the information reported under the section 8(a) rule indicated production/import volume in excess of 3 million lbs/yr. The second tier of tests included: Chronic toxicity in fish, chronic toxicity in Daphnia, biodegradability in sludge systems, and biodegradation rate. In the section 8(a) rule, EPA required that manufacturers (including importers) of anthraquinone submit an annual report to EPA stating the volume of anthraquinone manufactured or imported during their latest corporate fiscal year.

The last Tier I testing was submitted to EPA on August 21, 1989. Results of the Tier 1 tests, as conducted, did not meet the hazard triggers for Tier 2 testing, and Tier 2 testing was not triggered. The anthraquinone test rule had a sunset date of August 21, 1994, and was removed from the Code of Federal Regulations (CFR) by a final rule issued on June 19, 1995 (60 FR 21917). Because requirements under the test rule ended on August 21, 1994, there is no need for the continued annual reporting of production and import volumes of anthraquinone under 40 CFR 704.30.

II. Revocation of Anthraquinone Recordkeeping and Reporting Requirements

EPA is revoking the section 8(a) recordkeeping and reporting requirements at 40 CFR 704.30.

III. Analyses Under E.O. 12866, the Unfunded Mandates Act of 1995, the Regulatory Flexibility Act, and the Paperwork Reduction Act

Because this action eliminates certain requirements, this action is not significant within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), and does not impose any Federal mandate on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reasons, pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this action will not have a significant impact on a substantial number of small entities. Additionally, because this rule eliminates reporting requirements, this action does not affect requirements under the Paperwork Reduction Act, 44 U.S.C. 3501.

IV. Public Docket

A record has been established for this rulemaking under docket number ''OPPTS–82047.'' A public version of this record, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

List of Subjects in 40 CFR Part 704

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 31, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended to read as follows:

PART 704—[AMENDED]

1. The authority citation for part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).