

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 60 and 61

[FRL-5943-4]

Technical Amendments to Credible Evidence Revisions; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On February 24, 1997 (62 FR 8314), the Environmental Protection Agency (EPA) published in the **Federal Register** a final rule concerning credible evidence to clarify that non-reference test data can be used in enforcement actions, and to remove any potential ambiguity regarding this data's use for compliance certifications under Section 114 and Title V of the Clean Air Act. This rule established an effective date of April 25, 1997. This document corrects the effective date of the rule to December 30, 1997 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801, 808.

EFFECTIVE DATE: December 30, 1997.

FOR FURTHER INFORMATION CONTACT: Jon Silberman at (202) 564-2429.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on February 24, 1997, by operation of law, the rule did not take effect on April 25, 1997 as stated. After EPA discovered its error, the rule was submitted to both Houses of Congress and the GAO on December 11, 1997. This notice amends the effective date of the rule consistent with the provisions of the CRA.

Pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b), when EPA finds for good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the Agency may issue a rule without providing notice and an opportunity for public comment.

EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since February 24, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the February 24, 1997 **Federal Register** notice.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule became effective on December 30, 1997. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it changes no other aspects of rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 307(b)(1) of the Clean Air Act,

challenges to this amendment must be brought by March 9, 1998.

Dated: December 30, 1997.

Carol M. Browner,

Administrator, Environmental Protection Agency.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5945-2]

Technical Amendments to Approval and Promulgation of Air Quality Implementation Plans: Utah; Improved Motor Vehicle Inspection and Maintenance Program: Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On June 9, 1997 (62 FR 31349), the Environmental Protection Agency published in the **Federal Register** an interim final rule under the Clean Air Act concerning an interim approval of a revision to the state implementation plan in Utah County relating to an improved basic inspection and maintenance program. The rule established an effective date of July 9, 1997. This document corrects the effective date of the rule to December 30, 1997 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act.

EFFECTIVE DATE: December 30, 1997.

FOR FURTHER INFORMATION CONTACT: Tom Eagles at (202) 260-9766.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated June 9, 1997, by operation of law, the rule did not take effect on July 9, 1997 as stated. After EPA discovered its error, the rule was submitted to both Houses of Congress and the GAO on December 11, 1997.