

Order 13132 (64 FR 43255, Aug. 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, Apr. 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175.³

This action is subject to the Congressional Review Act (CRA), and the EPA will submit a rule report to

each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *December 7, 2026*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 28, 2026.

James Macy,
Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

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

Subpart AA—Missouri

- 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry “10–6.061” to read as follows:

§ 52.1320 Identification of plan.

*	*	*	*	*
(c)	*	*	*	*

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
10–6.061	Construction Permit Exemptions.	1/30/2026	10/8/2026, 91 FR [insert Federal Register page where the document begins].	Sections (3)(A)2.D. and (3)(A)2.E.(II)(c) are not SIP-approved.
*	*	*	*	*

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 [FR Doc. 2026–20634 Filed 10–7–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2024–0295; FRL–13322–02–R4]

Air Plan Approval; Kentucky; Louisville Area Limited Maintenance Plan for the 1997 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is

approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky through the Energy and Environment Cabinet (Cabinet) on behalf of the Louisville Metro Air Pollution Control District (District) via a letter dated June 3, 2024. The SIP revision consists of a Limited Maintenance Plan (LMP) for the Kentucky portion of the bi-state Louisville, Kentucky-Indiana 1997 8-hour ozone maintenance area (the “bi-state Louisville Area”). The Kentucky portion of the bi-state Louisville Area is comprised of Bullitt, Jefferson, and Oldham Counties in Kentucky (the “Louisville Area”). The EPA is

³ 65 FR 67249 (Nov. 9, 2000).

approving the Louisville Area's LMP because it provides for the maintenance of the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) within the bi-state Louisville Area through the end of the second 10-year portion of the maintenance period. The effect of this action is to make certain commitments related to maintenance of the 1997 8-hour ozone NAAQS in the Louisville Area federally enforceable as part of the Kentucky SIP.

DATES: This rule is effective November 9, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2024-0295. All documents in the docket are listed on the [regulations.gov](https://www.regulations.gov) website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION**

CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nelsha Athauda, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9360. Ms. Athauda can also be reached via electronic mail at athauda.nelsha@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA uses multiple abbreviations and terms in this rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
EPA Environmental Protection Agency
LMP Limited Maintenance Plan
NAAQS National Ambient Air Quality Standard or Standards
NPRM Notice of Proposed Rulemaking

SIP State Implementation Plan

Table of Contents

- I. Executive Summary
- II. Background
- III. Response to Comments
- IV. Statutory and Executive Order Reviews

I. Executive Summary

Under CAA sections 110(k) and 175A, the EPA is approving the Louisville Area LMP for the 1997 8-hour ozone NAAQS, submitted by the Cabinet on June 3, 2024, as a revision to the Kentucky SIP. The EPA is approving the Louisville Area LMP because it includes an acceptable update of the various elements of the 1997 8-hour ozone NAAQS maintenance plan approved by the EPA for the first 10-year period—including an emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions.

The EPA finds that the Louisville Area qualifies for the LMP option and that, therefore, the Louisville Area LMP adequately demonstrates maintenance of the 1997 8-hour ozone NAAQS through documentation of monitoring data showing design values well below the NAAQS and continuation of existing control measures. The EPA believes that the Louisville Area's 1997 8-hour ozone LMP is sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the bi-state Louisville Area over the remainder of the second 10-year maintenance period, through 2027, and thereby satisfies the requirements for such a plan under CAA section 175A(b).

II. Background

On April 30, 2004, the bi-state Louisville Area—which is comprised of Bullitt, Jefferson, and Oldham Counties in Kentucky; and Clark and Floyd Counties in Indiana—was designated as nonattainment for the 1997 8-hour ozone NAAQS.¹ Subsequently, on September 29, 2006, the Cabinet submitted a redesignation request and the first 10-year maintenance plan for the Louisville Area. In 2007, the EPA approved the maintenance plan and redesignated the Louisville Area to attainment for the 1997 8-hour ozone NAAQS.²

Through a notice of proposed rulemaking (NPRM) published on August 27, 2026,³ the EPA proposed to approve the Louisville Area LMP for the 1997 8-hour ozone NAAQS, which is designed to maintain the 1997 8-hour ozone NAAQS within the Louisville

Area through the end of the second 10-year portion of the maintenance period beyond redesignation. The details of the Cabinet's June 3, 2024, submittal as well as the EPA's rationale for approval are described in more detail in the August 27, 2026, NPRM. Comments on the August 27, 2026, NPRM were due on or before September 17, 2026. The EPA received two sets of comments from two separate individuals. The first set of comments provides feedback on the proposal and the plan, and concludes by stating that the feedback is not "a case against approving Kentucky's submission." The second set of comments recommends approval of the LMP but makes some requests for clarification. Overall, EPA acknowledges the comments received and a brief response is provided below. The commenters did not provide new technical data or legal arguments demonstrating that the proposed approach is unreasonable. Consequently, EPA is finalizing the action as proposed without modifications.

III. Response to Comments

Comment 1a: The commenter states that the Louisville Area LMP "ties its maintenance demonstration to a design-value screening threshold of 85 percent of the ozone NAAQS" and that one monitor in Jefferson County does not meet this threshold. The commenter alleges that the EPA's "stress test loses its precision" by adding the largest area-wide design-value increase, 0.008 parts per million (ppm) recorded at the Clark County, Indiana monitor, to the highest current design value in the area. The commenter states that the math "is conservative in form, but borrows its volatility figure from a monitor that is not under stress and applies it to one that already shows its own multi-period climb." The commenter further states that a projection built from the trajectory of the monitor with the highest design value, "rather than an area-wide maximum increase pulled from elsewhere, would test the monitor that actually needs testing."

Response 1a: The EPA evaluates each LMP on a case-by-case basis, taking into consideration the weight of evidence (WOE) of the information presented in the SIP submittal. The EPA evaluated the level of the bi-state Louisville Area's air quality design values as part of its WOE along with a measure of the stability of the ozone design values and concluded that the probability of the bi-state Louisville Area violating the standard during the second maintenance period is low. The EPA's

¹ See 69 FR 23858 (Apr. 30, 2004).

² See 72 FR 36601 (July 5, 2007).

³ See 91 FR 55294 (Aug. 27, 2026).

evaluation is discussed in the NPRM and further described below.

Regarding the comment concerning the “NPRM’s stress test,” several kinds of analyses can be performed to assess whether an area has had relatively stable or consistently improving air quality levels over the long term such that the probability of the area violating the standard in the future would be low. One approach is to take the most recent design value for the area⁴ and add the maximum design value increase, over one or more consecutive years, that has been observed in the area over the past several years.⁵ For this maintenance plan, the EPA assessed the design value data to determine whether adding the maximum design value increase over the 14-year timeframe between 2012 and 2025 to the most recent design value for the bi-state Louisville Area would result in a value below the 0.084 ppm threshold to attain the 1997 8-hour ozone NAAQS.

The EPA’s analysis showed that adding the maximum design value increase in any monitor over the entire 14-year timeframe—0.008 ppm—to the maximum most recent design value at any monitor in the area—0.075 ppm—would result in a design value attaining the 1997 8-hour ozone NAAQS. According to the commenter, the EPA should have instead considered the trajectory at the monitor with the 0.075 ppm design value. However, the design values at this monitor did not change between 2024 and 2025, and the difference between the highest and lowest design value at this monitor over the 14-year timeframe was lower—0.006 ppm—which would produce a value of 0.081 ppm, which is also below the NAAQS. Thus, when the EPA applies its understanding of the commenter’s approach, this appears to reinforce the EPA’s conclusion that the probability of the bi-state Louisville Area violating the standard during the second maintenance period is low.

Comment 1b: The commenter points out that deciding which of the ten listed contingency measures to adopt “rests on the Division’s judgment.” The commenter states that there is no “minimum stringency floor” or opportunity for the EPA or public to review the choice before it becomes part of the SIP. The commenter states that “attaching a stringency standard, or a defined concurrence step, to that selection would let the contingency

plan “provide a prompt, predictable response rather than a discretionary one.”

Response 1b: The EPA acknowledges the comments and offers some clarifications in this response. CAA section 175A(d) only requires that maintenance plans contain contingency provisions that “the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area.” The CAA does not specify the requisite nature, scope, specificity, or number of contingency measures to be included in a maintenance plan. It is for the EPA to determine whether a state has given adequate assurance that it can promptly correct a violation. Kentucky submitted contingency measures that the EPA deems adequate, and the commenter does not argue that the contingency measures listed in the June 3, 2024, SIP revision are insufficient. Kentucky has committed to promptly correct any future violation and has identified measures that are sufficiently specific, but which allow for latitude in potential scope. This will enable Kentucky to address a range of potential sources and differing degrees and types of violations. The EPA believes that the contingency measures set forth in the submittal, combined with Kentucky’s commitment to an expeditious timeline, provide assurance that they will promptly correct a future potential violation. Given the uncertainty as to timing, degree and nature of any future violation, the EPA believes that the contingency measures set forth adequately balance the need for flexibility in the scope and type of measure to be implemented with the need for expeditious action on the part of the Commonwealth.

The EPA disagrees that the Agency and the public do not have the opportunity to review the selected contingency measure before it becomes part of the SIP. The District and the Commonwealth developed the LMP with public notice and opportunity for a hearing, and the EPA’s NPRM provided opportunity for comment on the sufficiency of the contingency plan. As discussed above, the EPA has determined that this contingency plan is sufficient to assure that the District and the Commonwealth will promptly correct any violation of the NAAQS, as required by CAA section 175A(d). Further, CAA section 175A(d) gives the Administrator discretion to “require[] the State to submit a revised [SIP]” if necessary, and pursuant to CAA section 110(l) and 40 CFR part 51, subpart F,

any SIP revision must be subject to public notice at the State level.

Comment 1c: The commenter states that the second 10-year maintenance period runs through 2027, “close behind any final action on this proposal, and the notice does not describe what happens to the Louisville Area’s SIP obligations after that date or whether a third submission is already underway.” The commenter asserts that the EPA should name “a submission timeline for the period after 2027 now.”

Response 1c: CAA section 175A only requires States to submit two maintenance plan SIP revisions for areas redesignated from nonattainment to attainment. The first maintenance plan SIP revision must provide for maintenance of the NAAQS “for at least ten years after the redesignation.”⁶ Effective August 6, 2007, the EPA approved the Louisville Area’s first maintenance plan and redesignated that area to attainment. The second maintenance plan SIP revision must provide for maintenance of the NAAQS for 10 years after the expiration of the first 10-year period.⁷ Thus, this second maintenance plan for the Louisville Area only provides for maintenance of the NAAQS through 2027—10 years after the expiration of the first 10-year period. No third maintenance plan SIP revision is required; therefore, there is no submission timeline and no such SIP revision is underway.

Comment 2a: This commenter states that EPA should “approve the LMP, but that the final rule” should “specifically address” the Jefferson County monitor that produced a design value of 0.075 ppm and “confirm that continued monitoring and contingency triggers are sufficient to catch any upward trend.” The commenter asserts that the monitor “warrants explicit attention in the final action rather than being subsumed into the overall weight of evidence” because the monitor is “approaching 90 percent of the standard.”

Response 2a: Regarding the comment concerning the design value of 0.075 ppm, see the discussion in *Response 1a*, above. Regarding the comment concerning the detection of an upward trend, the EPA has approved the Cabinet’s air quality monitoring network in the Louisville Area as meeting the requirements of 40 CFR part 58, as noted in the NPRM and the EPA’s October 28, 2025, response to the 2025 network plan for Kentucky and the

⁴ The design value for an area is the highest design value at any monitor in the area.

⁵ See EPA’s Resource Document for 1997 Ozone NAAQS Areas: Supporting Information for States Developing Maintenance Plans, November 20, 2018, pp. 6–7.

⁶ See CAA section 175A(a).

⁷ See CAA section 175A(b).

District.⁸ Two primary objectives of part 58 monitoring networks are to evaluate compliance with the NAAQS and to identify data trends.⁹ Any changes in the part 58 monitoring network must be approved by the EPA.¹⁰ Furthermore, the contingency plan includes tracking and triggering mechanisms to determine when control measures are needed and a process for developing and adopting appropriate control measures. In addition to a violation trigger, the contingency plan also includes a set of “indicator” triggers: (1) any 8-hour ozone monitoring reading of 0.085 ppm or greater in the Area, or (2) a periodic emissions inventory for the Area that shows greater than 10 percent growth in either NO_x or VOC emissions over the attainment year inventory. Either of these non-violating, indicator triggers results in Kentucky and the District evaluating existing control measures to see if any further emission reductions measures should be adopted in an effort to avoid a future violation.

Comment 2b: The commenter states that the final rule should “clarify that the contingency measures [in the LMP] remain available and enforceable through the end of the maintenance period even as the area continues to address the 2015 NAAQS.” The commenter contends that the contingency measures should “remain coordinated with any ongoing control strategies for the newer standard so that resources are not diluted.”

Response 2b: The EPA confirms that, with the approval of this SIP revision, the LMP’s contingency plan for the entirety of the second maintenance period will be part of the federally enforceable SIP. Regarding the commenter’s suggestion that the contingency measures in the LMP should be coordinated with the control measures for the 2015 ozone NAAQS, CAA section 175A requires each State with a maintenance area to submit maintenance plans focused on the specific NAAQS for which the area was redesignated to attainment.¹¹ In this case, the LMP is appropriately focused on the 1997 ozone NAAQS. The EPA carefully evaluated the LMP’s contingency plan and ensured it complies with the requirements of CAA section 175A(d).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.¹² Thus, in reviewing SIP submissions, the EPA’s role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
 - Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have

Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under CAA section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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.¹³

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2026.

Kevin McOmber,

Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

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

Subpart S—Kentucky

- 2. In § 52.920, in paragraph (e), amend the table by adding an entry for “1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the bi-state Louisville Area” at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation.” (emphasis added).

¹² See 42 U.S.C. 7410(k); 40 CFR 52.02(a).

¹³ See CAA section 307(b)(2).

⁸ The EPA’s response letter is included in the docket for this action.

⁹ See 40 CFR part 58, Appendix D, Section 1.1(a)–(c). See also 71 FR 61236, 61260 (Oct. 17, 2006).

¹⁰ See 40 CFR 58.10 and 58.14.

¹¹ See CAA section 175A(a) (“Each State which submits a request under section 7407(d) of this title for redesignation of a nonattainment area for any air pollutant as an area which has attained the national primary ambient air quality standard for that air pollutant shall also submit a revision of the applicable State implementation plan to provide for

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanations
1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the bi-state Louisville Area.	Bullitt, Jefferson, and Oldham Counties.	6/3/2024	10/8/2026, 91 FR [Insert Federal Register page where the document begins].	

[FR Doc. 2026–20641 Filed 10–7–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

42 CFR Part 136

RIN 0917–AA14

Removal of Obsolete Portion of Regulation Relating to Care and Treatment of Ineligible Individuals

AGENCY: Indian Health Service (IHS), HHS.**ACTION:** Final rule.

SUMMARY: The Indian Health Service (IHS) of the Department of Health and Human Services (HHS or “the Department”) is issuing this final rule to remove obsolete language appearing in the Code of Federal Regulations (CFR). The language refers to an outdated process for determining what the IHS will charge for care to non-IHS-beneficiaries. Eliminating this obsolete language will not change IHS’s existing practices or authorities.

DATES: This rule is effective on December 7, 2026.

FOR FURTHER INFORMATION CONTACT: Carl Mitchell, Director, Division of Regulatory and Policy Coordination, Office of Management Services, Indian Health Service, 301–651–0489 (This is not a toll-free number), *Carl.Mitchell@ihs.gov*.

SUPPLEMENTARY INFORMATION: HHS published a notice of proposed rulemaking in the **Federal Register** on June 15, 2020 (85 FR 36182), with a sixty-day comment period, which closed on August 14, 2020. HHS did not receive any public comments.

HHS will remove outdated language appearing in the CFR at 42 CFR 136.14(b). The regulations in this part established general principles and program requirements for carrying out

Indian health programs. Regarding the provision of IHS services to ineligible individuals, § 136.14(b) provides that such individuals should be charged “rates approved by the Assistant Secretary for Health and Surgeon General published in the **Federal Register**.” The Assistant Secretary for Health and the Surgeon General no longer approve or publish such rates. The Agency therefore will remove this unnecessary language. When the outdated language of § 136.14(b) is removed, § 136.14 in its entirety will read: “(a) In case of an emergency, as an act of humanity, individuals not eligible under § 136.12 may be provided temporary care and treatment in Service facilities; (b) Charging ineligible individuals. Where the Service Unit Director determines that an ineligible individual is able to defray the cost of care and treatment, the individual shall be charged. Reimbursement from third-party payors may be arranged by the patient or by the Service on behalf of the patient.” For complete access to background documents or information, go to <http://www.regulations.gov> and search for Docket ID number IHS–FRDOC–0001.

Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives. Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or Tribal governments or communities (also referred to as “economically significant”); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement

grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order. A regulatory impact analysis must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). The HHS submits that this final rule is not “economically significant” as measured by the \$100 million threshold, and hence not a major rule under the Congressional Review Act. This rule has not been designated as a “significant regulatory action” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB). Executive Order 14192 requires that any new incremental costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations.” This final rule is expected to be an Executive Order 14192 deregulatory action.

Regulatory Flexibility Act

This action will not have a significant economic impact on small entities such as Indian health programs. Therefore, the regulatory flexibility analysis provided for under the Regulatory Flexibility Act is not required.

Paperwork Reduction Act

This action does not affect any information collections.

List of Subjects in 42 CFR Part 136

Care and treatment of ineligible individuals.

For the reasons set forth in the preamble, the Department amends 42 CFR part 136 as follows:

PART 136—INDIAN HEALTH

■ 1. The authority citation for part 136 continues to read as follows:

Authority: 42 U.S.C. 2001 and 2003; 25 U.S.C. 13; and 25 U.S.C. 1621a.