ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70


Approval and Promulgation of Operating Permits Program; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing approval of a revision to the Iowa Operating Permits Program for the purpose of revising the definition of stationary source categories in the state rule. The revised definition will be consistent with the Federally-approved rules, including the provisions of the New Source Review Program and with EPA’s major source definition.

DATES: This direct final rule will be effective September 27, 2004, without further notice, unless EPA receives an adverse comment by August 30, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2004–IA–0002, by one of the following methods:

2. Agency Web site: http://docket.epa.gov/rmepub/. RME, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search”; then key in the appropriate RME Docket identification number. Follow the online instructions for submitting comments.
3. E-mail: hamilton.heather@epa.gov.
4. Mail: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
5. Hand Delivery or Courier. Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This section provides additional information by addressing the following questions:

What is the Part 70 operating permits program?
What is being addressed in this document?
What action is EPA taking?

What Is the Part 70 Operating Permits Program?

The Clean Air Act (CAA) Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the Part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, 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. Revisions to the state operating permits program are subject to public notice, comment, and EPA approval.

What Is Being Addressed in This Document?

The state of Iowa has requested a revision to the Operating Permits Program for the purpose of revising the...
This rule also 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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 CAA. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state operating permits programs submitted pursuant to Title V of the CAA, EPA will approve state programs provided that they meet the requirements 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 voluntary consensus standards (VCS), EPA has no authority to disapprove a state operating permits program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of a state program that otherwise satisfies the provisions of the CAA. 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. 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. 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).

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 September 27, 2004. 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 70

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


U. Gale Hutton,
Acting Regional Administrator, Region 7.

Chapter I, title 40 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.

Appendix A—[Amended]

2. Appendix A to Part 70 is amended by adding paragraph (g) under Iowa to read as follows:

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

* * * * *

Iowa

* * * * *

[g] The Iowa Department of Natural Resources submitted for program approval rule 567–22.100(455B) on April 20, 2004. The state effective date is January 15, 2003. We are approving this program revision effective September 27, 2004.

* * * * *

[FR Doc. 04–17297 Filed 7–28–04; 8:45 am]